

STATE OF RHODE ISLAND

WASHINGTON, SC.

SUPERIOR COURT

(FILED: July 28, 2026)

SCOTT LABOSSIERE,
Appellant,

v.

C.A. No. WC-2026-0156

THE TOWN OF EXETER ZONING
BOARD OF REVIEW; RICHARD
BOOTH, in his capacity as Chairman for
the Exeter Zoning Board of Review;
RICHARD QUATTROMANI, in his
Capacity as a Member of the Exeter
Zoning Board of Review; THOMAS
MCMILLAN, in his capacity as a
Member of the Exeter Zoning Board of
Review; STEPHEN SOVET, in his
Capacity as a Member of the Exeter
Zoning Board of Review; LOREN
ANDREWS, in his capacity as a Member
of the Exeter Zoning Board of Review;
TIMOTHY ROBERTSON, in his
capacity as a Member of the Exeter
Zoning Board of Review; SUSAN
FRANCO-TOWELL, in her capacity as a
Member of the Exeter Zoning Board of
Review; and KAREN ELLSWORTH, in
her capacity as interim Zoning Official
for the Town of Exeter,
Appellees.

DECISION

TAFT-CARTER, J. Before this Court is Scott Labossiere’s (Labossiere or Appellant) appeal from a decision of the Town of Exeter Zoning Board of Review (Board) affirming a notice of violation issued to him by Deputy Zoning Inspector Karen R. Ellsworth on October 24, 2025.

Jurisdiction is pursuant to G.L. 1956 § 45-24-69. For the reasons set forth below, the appeal is denied and the decision of the Board is affirmed.

I

Facts and Travel

On December 19, 2018, the Town of Exeter's (Town) then Zoning Inspector, Hal Morgan (Morgan), issued Town of Exeter Zoning Certificate No. 8188-18 to Appellant in relation to the property located at "0 Bates Schoolhouse Rd" and further identified as Tax Assessor's Plat 31, Block 3, Lot 21 (2018 Zoning Certificate). (Certified R., Ex. 19, Appellant's Mem. in Supp. of Appeal, Ex. A (94).)¹ The 2018 Zoning Certificate states that the proposed use of the premises was "[t]ree service," notes "vehicles in excess of 20,000 lbs ok if garaged[.]" and indicates that the proposed use "DOES" conform to the provisions of the Town's Zoning Ordinance. (Certified R., Ex. 19, Stipulation (94).)

Morgan passed away in October 2024. (Certified R., Ex. 19, Stipulation (94).) Thereafter, Appellant contacted Karen R. Ellsworth (Ellsworth), then the acting Zoning Inspector for the Town, requesting the issuance of "a zoning certificate . . . to permit him to do wood processing on his property." (Certified R., Ex. 26, Tr., 33:21-25, Feb. 12, 2026 (260).) Ellsworth told Appellant that, pursuant to the Town of Exeter's Zoning Ordinance (Zoning Ordinance), "he would have to go to the zoning board to get a special use permit, and [she] gave him a zoning certificate that said that." *Id.* at 34:1-5 (261).

¹ The documents in the Certified Record are marked as enumerated exhibits and will be identified herein by the exhibit numbers, document titles, and, where appropriate, internal page numbers. In addition, each page in the Certified Record is sequentially numbered in the bottom right corner, and each citation to the Certified Record will include the sequential page number(s) in parentheses at the end of the citation sentence.

Thereafter, “it came to [Ellsworth’s] attention that there was a violation on [Appellant’s] property[.]” *Id.* at 34:7-8 (261). After Ellsworth became aware of the apparent violation, she contacted the Town’s zoning clerk to determine whether Appellant had applied for a special use permit as she had advised. *Id.* at 34:8-10 (261). At that time, Ellsworth learned that the “special use permit had been eliminated and replaced by the requirement that a person who wanted to do [wood processing] would have to go to the planning board and get minor land development approval.” *Id.* at 34:10-15 (261). Ellsworth therefore “checked with the planning clerk to see if [Appellant] had filed [such] an application” and found that he had not. *Id.* at 34:15-17 (261).

Ellsworth then contacted the building official and requested that he visit the property and obtain photographs. *Id.* at 34:18-20 (261). Photographs were later provided to Ellsworth, and “based on the photographs, on the aerial photographs that are in the GIS system on the town website, from 2018 and 2024, . . . on [Ellsworth’s] conversation with [Appellant] and the certificate that [she] had issued to him, [Ellsworth] determined that there was a violation, both with respect to the wood processing and storage and parking and maintenance of the vehicles over a 20,000 pound gross vehicle weight.” *Id.* at 34:24-35:5 (261-62).

Accordingly, on October 24, 2025, Ellsworth issued a Notice of Violation (NOV) to Appellant. (Certified R., Ex. 3, Notice of Violation (9).) The NOV states, in pertinent part, that

“[a]n inspection of your property on October 17, 2025 disclosed that you are processing wood on [the property] without having first obtained Minor Land Development Project approval from the Exeter Planning Board, as required by Sec. 2.4.1.41 of the Exeter Zoning Ordinance.

“The inspector also observed at least two commercial vehicles with a gross vehicle weight of more than 20,000 lbs. parked on the property. . . . Sec. 5.1(D) of the Exeter Zoning Ordinance prohibits parking or storage of commercial registered vehicles with a gross vehicle weight of more than 20,000 lbs. in any residential district, except for farm vehicles.” *Id.*

On November 9, 2025, Appellant appealed the NOV to the Board. (Certified R., Ex. 4, Letter of Appeal, Nov. 9, 2025 (11-12).) A public hearing was held by the Board at a public meeting on February 12, 2026. (Certified R., Ex. 24, Exeter Zoning Board of Review Meeting Minutes, Feb. 12, 2026 (214-18).) At the hearing, the Board heard testimony from Ellsworth, Appellant, and several members of the community. *See generally*, Certified R., Ex. 26, Tr., Feb. 12, 2026 (226-323). At the conclusion of the meeting, Vice Chairman Thomas McMillan (McMillan) moved to affirm the NOV. *Id.* at 93:19-22 (320). McMillan indicated that his motion was “based on the collective recognition that CR-5 is a residential zone per the definitions in [the] zoning ordinance and that a reasonable person would recognize that what’s happening on this property is wood processing which, per the zoning ordinance revised by legislation, requires minor land development project approval.” *Id.* at 94:15-21 (321). McMillan’s motion was seconded by Board member Loren Andrews, and the meeting concluded. *Id.* at 95:4-5 (322).

The Board issued a decision affirming the NOV on March 5, 2026. *See generally* Certified R., Ex. 25, Decision (221-26). The Board’s written decision states that the vote to uphold the NOV at the February 12, 2026 meeting was unanimous. *Id.* at 6 (226).

II

Standard of Review

Section 45-24-69 of the Rhode Island Zoning Enabling Act governs this Court’s review of a decision of a local zoning board of review. Specifically, § 45-24-69(d) provides that:

“The court shall not substitute its judgment for that of the zoning board of review as to the weight of the evidence on questions of fact. The court may affirm the decision of the zoning board of review or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions, or decisions which are:

“(1) In violation of constitutional, statutory, or ordinance provisions;

“(2) In excess of the authority granted to the zoning board of review by statute or ordinance;

“(3) Made upon unlawful procedure;

“(4) Affected by other error of law;

“(5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or

“(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” Section 45-24-69(d).

In reviewing the decision of a zoning board, “[i]t is the function of the Superior Court to ‘examine the whole record to determine whether the findings of the zoning board were supported by substantial evidence.’” *Lloyd v. Zoning Board of Review for City of Newport*, 62 A.3d 1078, 1083 (R.I. 2013) (quoting *Apostolou v. Genovesi*, 120 R.I. 501, 507, 388 A.2d 821, 824 (1978)). Substantial evidence is defined as “such relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means an amount more than a scintilla but less than a preponderance.” *New Castle Realty Co. v. Dreczko*, 248 A.3d 638, 643 (R.I. 2021) (quoting *Iadevaia v. Town of Scituate Zoning Board of Review*, 80 A.3d 864, 870 (R.I. 2013)).

This Court “gives deference to the findings of a local zoning board” because it “is presumed to have knowledge concerning those matters which are related to an effective administration of the zoning ordinance.” *Pawtucket Transfer Operations, LLC v. City of Pawtucket*, 944 A.2d 855, 859 (R.I. 2008) (quoting *Monforte v. Zoning Board of Review of City of East Providence*, 93 R.I. 447, 449, 176 A.2d 726, 728 (1962)). Moreover, this Court may not “substitute its judgment for that of the zoning board if it can conscientiously find that the board’s decision was supported by substantial evidence in the whole record.” *Apostolou*, 120 R.I. at 509, 388 A.2d at 825. If the Court “can conscientiously find that the board’s decision was supported

by substantial evidence in the whole record[.]” then it must uphold that decision. *Mill Realty Associates v. Crowe*, 841 A.2d 668, 672 (R.I. 2004) (quoting *Apostolou*, 120 R.I. at 509, 388 A.2d at 825). Questions of law, however, are subject to *de novo* review, as “a zoning board’s determinations of law, like those of an administrative agency, ‘are not binding on the reviewing court [and] may be reviewed to determine what the law is and its applicability to the facts.’” *Pawtucket Transfer Operations*, 944 A.2d at 859 (quoting *Gott v. Norberg*, 417 A.2d 1352, 1361 (R.I. 1980)).

This Court is restricted from making its own findings of fact, weighing the evidence, or determining the credibility of witnesses. *See Munroe v. Town of East Greenwich*, 733 A.2d 703, 705 (R.I. 1999). If the decision of the board does not contain sufficient findings of fact and conclusions of law for the court to adequately review the decision, the court will remand the matter to the board so that the board may issue a ruling that is complete and susceptible to judicial review. *See Irish Partnership v. Rommel*, 518 A.2d 356, 359 (R.I. 1986) (returning matter to the zoning board of review).

III

Analysis

Through this appeal, Appellant asserts that the Board erred in affirming both aspects of the October 24, 2025 NOV. *See generally*, Appellant’s Mem. in Supp. of Appeal (Appellant’s Mem.). The Court will determine each aspect of the appeal independently.

A

Commercial Registered Vehicles

Appellant asserts that the Board’s decision to affirm the NOV with respect to the parking and storage of commercial vehicles on the property was arbitrary, capricious, and made through

an abuse of discretion. (Appellant's Mem. 10.) Appellant also asserts that the Board's decision was clearly erroneous in view of the reliable, probative, and substantial evidence on record. *Id.* Appellant does not dispute that he "parks or stores multiple commercial registered vehicles containing a weight of over 20,000 GVW (gross vehicle weight), which are not farm vehicles, on the Property." (Certified R., Ex. 19, Stipulation (94).) Rather, Appellant contends that § 5.1(D) of the Zoning Ordinance does not prohibit commercial vehicles on the property because "the CR-5 Zoning District is not a 'residential zone[.]'" (Appellant's Mem. 10.) Appellant maintains that the Zoning Ordinance "provides for only one (1) zoning district that can be objectively viewed as a 'residential' zone, that being the Residential District, RE-2." *Id.* As a result, the phrase "residential zone" as used in § 5.1(D) is ambiguous, and ambiguities in the Zoning Ordinance must be interpreted in favor of the landowner. *Id.* at 11.

Appellees contend that this Court should affirm the Board's decision because CR-5 is a residential zone, and Appellant does not dispute that he parks and stores vehicles prohibited in residential zones on the property. (Appellees' Br. in Opp'n to Appeal (Appellees' Br.) 5-6.) Furthermore, according to Appellees, the plain language of the Zoning Ordinance indicates that CR-5 is a residential zone. *Id.* at 6-7. Appellees assert that the fact that "[s]ingle-family structures" are permitted in the CR-5 zoning district by right further indicates that CR-5 is residential. *Id.* at 7. Additionally, Appellees point to various portions in the Zoning Ordinance that specifically describe CR-5 as residential and contend that such references remove all doubt as to whether CR-5 was intended to be a residential zone. *Id.* at 7-8. Appellees also aver that the language of § 5.1(D) prohibiting the parking or storage of commercial vehicles in "any residential zone" demonstrates

that there is more than one residential zone, negating any contention that “Residential district, RE-2” is the only residential zone designated in the Zoning Ordinance. *Id.* at 8.²

“It is well settled that ‘the rules of statutory construction apply equally to the construction of an ordinance.’” *Pawtucket Transfer Operations*, 944 A.2d at 859 (quoting *Mongony v. Bevilacqua*, 432 A.2d 661, 663 (R.I. 1981)). “When the language of a statute or a zoning ordinance is clear and certain, there is nothing left for interpretation and the ordinance must be interpreted literally.” *RH McLeod Family LLC v. Westerly Zoning Board of Review*, 338 A.3d 304, 310 (R.I. 2025) (internal quotation omitted). “This is particularly true where the Legislature has not defined or qualified the words used within the statute.” *Freepoint Solar LLC v. Richmond Zoning Board of Review*, 274 A.3d 1, 6 (R.I. 2022) (internal quotation omitted).

In “‘determin[ing] the true import of statutory language, it is entirely proper for [this Court] to look to the sense and meaning fairly deducible from the context.’” *Ryan v. City of Providence*, 11 A.3d 68, 71 (R.I. 2011) (quoting *In re Brown*, 903 A.2d 147, 150 (R.I. 2006)) (further internal quotation omitted). “[I]t would be ‘foolish and myopic literalism to focus narrowly on’ one statutory section without regard for the broader context.” *Id.* (quoting *In re Brown*, 903 A.2d at 150). “Thus, in interpreting a statute or ordinance, [this Court] first accept[s] the principle that ‘statutes should not be construed to achieve meaningless or absurd results.’” *Id.* (quoting *Berthiaume v. School Committee of Woonsocket*, 121 R.I. 243, 247, 397 A.2d 889, 892 (1979)). This Court “‘then consider[s] the entire statute as a whole; individual sections must be considered

² Appellees also assert that Appellant’s reliance on the 2018 Zoning Certificate is improper. While this Court recognizes “a zoning certificate is not legally binding,” *see Parker v. Byrne*, 996 A.2d 627, 633 (R.I. 2010), “Appellant is not asserting [that the 2018] Zoning Certificate was binding. Rather, Appellant [asserts] that [the 2018] Zoning Certificate proves the existence of ambiguity in the relevant provisions of the [Zoning Ordinance]” (Appellant’s Mem. 12.) Therefore, this Court need not consider Appellees’ argument on this issue further.

in the context of the entire statutory scheme, not as if each section were independent of all other sections.” *Id.* (quoting *Sorenson v. Colibri Corp.*, 650 A.2d 125, 128 (R.I. 1994)).

1

The CR-5 District is a Residential Zone

The Town’s “Conservation/recreation, CR-5” zone “is established as a separate district to preserve and protect an area abundant with natural resources, landscapes and sensitive soils having severe limitations, and to provide for a natural mixture of residential and recreational uses.” Exeter Zoning Ordinance, Art. II, Sec. 2.1.4. The Zoning Ordinance further provides that “[t]here shall be no parking or storage of commercial registered vehicles containing the weight of over 20,000 GVW (gross vehicle weight) in any residential zone except for the storage of farm vehicles.” Exeter Zoning Ordinance, Art. V, Sec. 5.1(D). The Zoning Ordinance does not define “residential zone”; but, upon examination of the Zoning Ordinance in its entirety, its meaning in § 5.1(D) is plain and unambiguous. The Zoning Ordinance specifically provides that the CR-5 zone exists “to provide for a natural mixture of *residential* and recreational uses.” Exeter Zoning Ordinance, Art. II, Sec. 2.1.4 (emphasis added).

The Zoning Ordinance further refers to CR-5 as “residential” in various other locations throughout, including §§ 2.4.3(A) (“In *residential* CR-5, RU-4, RU-3 and RE-2 zoning districts” (emphasis added)); 3.2(1) (“Treatment in *residential* zones (RE-2, RU-3, RU-4, CR-5” (emphasis added)); 3.2(8) (“Change of Use: A. *Residential* zones (RE-2, RU-3, RU-4 and CR-5” (emphasis added)); 4.1(1) (“Accessory buildings and uses, including private garages, in a *Residential* District (RE-2, RU-3, RU-4 and CR-5)” (emphasis added)); 4.3(2) (“In *residential* (RE-2, RU-3, RU-4, CR-5) districts” (emphasis added)); and 5.1(E)(4) (“Overnight parking of buses shall not be permitted in a *residential* (RE-2, RU-3, RU-4, CR-5) district. . . .” (emphasis

added)). Importantly, § 5.1(E), the provision immediately following that which serves as the basis for the commercial vehicle violation at issue here, also concerns the parking and storage of large vehicles. *See* Exeter Zoning Ordinance § 5.1(E). While subsections (1)-(3) concern recreational vehicles, including a restriction on their use as a living or housekeeping space and requirements related to setbacks and functionality, subsection (4) addresses the parking of buses, which are, like the commercial vehicles addressed in § 5.1(D), vehicles that are not typically parked or stored by homeowners. *See* Exeter Zoning Ordinance, § 5.1 (D)-(E). As discussed earlier, § 5.1(E)(4) specifically prohibits overnight parking of buses in residential districts, and it specifies that “residential” refers to the RE-2, RU-3, RU-4, CR-5 zones. Exeter Zoning Ordinance, § 5.1(E)(4). Accordingly, this Court cannot find that the Board’s interpretation that CR-5 is a residential zone was, as Appellant suggests, either clearly erroneous or arbitrary, capricious, or characterized by some other abuse of discretion. *See* § 45-24-69(d).

Based on the foregoing, a reading of the Zoning Ordinance in its entirety makes clear that CR-5 is a residential zone. Appellant’s argument to the contrary “ignores longstanding precedent that, when faced with an otherwise plain and unambiguous ordinance, this Court will not seek out ambiguity where none otherwise exists.” *Freepoint Solar LLC*, 274 A.3d at 7 (citing *Kastal v. Hickory House, Inc.*, 95 R.I. 366, 369, 187 A.2d 262, 264 (1963)). Because it is not disputed that the property at issue here “exists within the Town of Exeter in the CR-5 zone[,]” *see*, Certified R., Ex. 19, Stipulation dated Jan. 29, 2026 (94-95), this Court affirms the decision of the Board with respect to the commercial vehicle portion of the NOV.

B

Wood Processing

Appellant asserts that the Board's decision to affirm the NOV with respect to "wood processing" on the property must be reversed because the Zoning Ordinance does not include a definition for "wood processing," and therefore, the Board abused its discretion in finding that Appellant is engaged in wood processing on the property. (Appellant's Mem. 12.) Appellant further asserts that the Town failed to provide evidence to support enforcement of the NOV with respect to wood processing. *Id.* at 13. Additionally, Appellant maintains that § 2.4.1.41 of the Zoning Ordinance is void for vagueness, and therefore enforcement of the NOV on that basis would be in violation of Appellant's right to due process. *Id.* Finally, Appellant asserts that the Board's decision to affirm the NOV constitutes selective enforcement of § 2.4.1.41 in violation of his right to equal protection. *Id.* at 15.

Appellees argue that the lack of a definition for the phrase "wood processing" in the Zoning Ordinance required the Board to give those words their plain and ordinary meanings, and the Board's decision to affirm the NOV based on such an interpretation is supported by the record. (Appellees' Br. 12.) Appellees also note that interpreting the phrase "wood processing" to prohibit residents from operating woodchippers, chainsaws, and other similar equipment in a manner that is subordinate to their residential use of their properties would be an absurd result. *Id.* at 13. Additionally, Appellees assert that "wood processing" is a straightforward, simple, easy to understand phrase that "plainly encompasses the commercial wood cutting, sawing, and chipping occurring on [Appellant's] property[,]" and therefore, the phrase is not unconstitutionally vague. *Id.* at 15-16. Appellees further state that Appellant knew that his conduct amounted to "wood processing" as that phrase is used in the Zoning Ordinance because in October 2024 Appellant

requested and received a Zoning Certificate with respect to such activities on the property. *Id.* at 14. Appellees also assert that the Town is not selectively enforcing the Zoning Ordinance against Appellant; rather, Appellant is the only property owner known to be operating a large-scale wood processing business, and Appellant’s assertion that homeowners’ conduct of clearing brush from their properties is akin to his commercial activities is meritless. *Id.* at 15.³

1

The Board Did Not Abuse its Discretion

As discussed earlier, “[w]hen the language of a statute or a zoning ordinance is clear and certain, there is nothing left for interpretation and the ordinance must be interpreted literally.” *RH McLeod Family LLC*, 338 A.3d at 310 (internal quotation omitted). The Zoning Ordinance does not define the phrase “wood processing,” but the meaning of the phrase is plain and unambiguous, and the component words “wood” and “processing” are each words of common usage within the English language. The Merriam Webster Dictionary defines “wood” as “the hard fibrous substance consisting basically of xylem that makes up the greater part of the stems, branches, and roots of trees or shrubs beneath the bark and is found to a limited extent in herbaceous plants[.]” Merriam-Webster Online Dictionary (retrieved July 20, 2026, from <https://www.merriam-webster.com/dictionary/wood>). “Processing” is defined as “a series of actions that produce something or that lead to a particular result[.]” *Id.* (retrieved July 20, 2026, from <https://www.merriam-webster.com/dictionary/processing>).

³ Appellees also assert that Appellant’s contentions with respect to certain video evidence must fail; however, Appellant presents no arguments in relation to this evidence in his memorandum in support of the appeal. Accordingly, the Court need not address Appellees’ argument in this regard any further.

At the February 12, 2026 meeting, Appellant testified that he is engaged in forestry work, including one “ongoing job . . . doing selective logging, thinning, and . . . using the thinning process of forestry to do market place firewood.” (Certified R., Ex. 26, Tr. 73:11-21, Feb. 12, 2026 (300).) Appellant further testified that he “cut[s] and sort[s] the firewood” on the property. *Id.* Logging, thinning, cutting, and sorting is a series of actions that Appellant admits to engaging in, and he further admits that he engages in said actions because he “us[es] the thinning *process* of forestry to do market place firewood.” *See id.* (emphasis added). Thus, Appellant was clearly engaged in “wood processing” on the property.

Moreover, “when the provisions of a statute are unclear or subject to more than one reasonable interpretation, the construction given by the agency, or board, charged with its enforcement is entitled to weight and deference, as long as that construction is not clearly erroneous or unauthorized.” *Pawtucket Transfer Operations*, 944 A.2d at 859-60 (citing *Flather v. Norberg*, 119 R.I. 276, 283 n.3, 377 A.2d 225, 229 n.3 (1977)). Here, the Board discussed the meaning of “wood processing” at length during the February 12, 2026 meeting, and it ultimately determined “that a reasonable person would recognize that what’s happening on [Appellant’s] property is wood processing[.]” (Certified R., Ex. 26, Tr. 94:15-21, Feb. 12, 2026 (321).) There is no indication in the record or otherwise that the Board’s construction of the ordinance is erroneous or unauthorized. Thus, even were this Court to find that the phrase “wood processing” is unclear or ambiguous in the ordinance, the Board’s interpretation would be entitled to significant deference.

Based on the above, this Court cannot find that the Board abused its discretion in upholding the NOV with respect to Appellant’s “wood processing” activities on the property.

Sufficient Reliable, Probative, and Substantial Evidence Exists

Appellant also asserts that “the Town has provided no evidence to [the] Board that would support any enforcement of [the wood processing] violation regardless of the clear lack of definition assigned to the use alleged[.]” (Appellant’s Mem. 12-13.) Appellant does not point this Court in any direction that supports his position. Our Supreme Court has opined that:

“‘It is not enough merely to mention a possible argument in the most skeletal way, leaving the court to do counsel’s work, create the ossature for the argument, and put flesh on its bones.’ . . . Judges are not expected to be mindreaders. Consequently, a litigant has an obligation to spell out its arguments squarely and distinctly, or else forever hold its peace.” *State v. Florez*, 138 A.3d 789, 798 n.10 (R.I. 2016) (quoting *United States v. Zannino*, 895 F.2d 1, 17 (1st Cir. 1990) (internal quotation marks omitted)).

Nevertheless, this Court concludes that there was, in fact, sufficient, reliable, probative, and substantial evidence for the Board to reach its decision. Indeed, Ellsworth testified that she discussed Appellant’s activities with him and viewed photographs of Appellant’s property, and based on both the photographs and her conversation with Appellant, she determined that there was a violation with respect to wood processing. *See* Certified R., Ex. 26, Tr. 34:5-35:3, Feb. 12, 2026 (261-62). This Court may not “substitute its judgment for that of the zoning board if it can conscientiously find that the board’s decision was supported by substantial evidence in the whole record.” *Apostolou*, 120 R.I. at 509, 388 A.2d at 825. Here, the substantial evidence in the whole record ineluctably leads to the conclusion that the Appellant was engaged in wood processing on the property, and this Court finds that the Board’s decision was properly supported by that evidence.

Section 2.4.1.41 is Not Unconstitutionally Vague

“The void-for-vagueness doctrine emanates from the due process requirements that a law must be defined ‘[1] with sufficient definiteness that ordinary people can understand what conduct is prohibited and [2] in a manner that does not encourage arbitrary and discriminatory enforcement.’” *State ex rel. City of Providence v. Auger*, 44 A.3d 1218, 1233 (R.I. 2012) (quoting *Kolender v. Lawson*, 461 U.S. 352, 357 (1983)). “The test for whether a statute is void for vagueness is ‘whether the language used is commonly understood by persons of ordinary intelligence.’” *Bourque v. Dettore*, 589 A.2d 815, 822-23 (R.I. 1991) (quoting *State v. Picillo*, 105 R.I. 364, 369, 252 A.2d 191, 194 (1969)).

Examining the language of § 2.4.1.41, this Court is “entirely unable to conclude that the ordinance is so vague that persons of ordinary intelligence cannot understand what conduct is being prohibited.” *See Auger*, 44 A.3d at 1234. This Court “realize[s] that human language is a less than perfect medium; as the Supreme Court has memorably commented: ‘Condemned to the use of words, we can never expect mathematical certainty from our language.’” *Id.* (quoting *Grayned v. City of Rockford*, 408 U.S. 104, 110 (1972)). However, as discussed earlier, the meaning of the phrase “wood processing” within § 2.4.1.41 is plain and unambiguous, and the component words “wood” and “processing” are each words of common usage within the English language. Accordingly, § 2.4.1.41 of the Zoning Ordinance is not unconstitutionally vague.

Selective Enforcement of § 2.4.1.41

Appellant asserts that “the NOV for ‘wood processing’ is a clear violation of [his] right to equal protection of the laws whereby he has been singled out and persecuted by the Town for

impermissibly vague conduct.” (Appellant’s Mem. 15.) “A selective-enforcement claimant must show: ‘(1) he or she, compared with others similarly situated, was selectively treated; and (2) that such selective treatment was based on impermissible considerations such as race, religion, intent to inhibit or punish the exercise of constitutional rights, or malicious or bad faith intent to injure a person.’” *Providence Teachers’ Union Local 958, AFL-CIO, AFT v. City Council of City of Providence*, 888 A.2d 948, 954 (R.I. 2005) (quoting *LeClair v. Saunders*, 627 F.2d 606, 609-10 (2d Cir. 1980)) (internal brackets omitted).⁴ “[W]here no invidious discrimination or interference with the exercise of other express constitutional rights has occurred, the malice/bad faith standard should be scrupulously met.” *Id.* (quoting *LeClair*, 627 F.2d at 610). “Different treatment does not itself prove bad faith intent to injure. . . . If that were the case, [the] two-prong test would collapse on itself, allowing a finding that equal protection rights were violated simply by the showing of different treatment.” *Id.* at 954-55 (quoting *Yerardi’s Moody Street Restaurant & Lounge, Inc. v. Board of Selectmen of Randolph*, 932 F.2d 89, 92 (1st Cir. 1991)) (internal brackets omitted).

Appellant “neither establishes discriminatory animus, nor does [he] provide adequate inferences of any impermissible consideration” in support of his equal protection claim. *See id.* at 955. Appellant asserts that “his direct abutter, the zoning official for the Town of Exeter, is engaged in the same conduct” which serves as the basis for the wood processing portion of the

⁴ Appellant does not state whether this claim is based on his right to Equal Protection pursuant to the Fourteenth Amendment of the United States Constitution or article 1, section 2 of the Rhode Island Constitution. However, in evaluating a selective-enforcement claim, our Supreme Court has previously stated: “We borrow a standard articulated and applied in related federal appellate cases to analyze plaintiff’s claim under our state constitution because the federal courts have had occasion to address selective-enforcement claims directly.” *Providence Teachers’ Union Local 958, AFL-CIO, AFT v. City Council of City of Providence*, 888 A.2d 948, 956 (R.I. 2005). Accordingly, this Court analyzes Appellant’s claim using that standard only.

NOV against Appellant. (Appellant’s Mem. 15.) However, the Certified Record in this matter discloses that Appellant’s neighbor, David Thornley (Thornley) has one woodchipper, which he “use[s] . . . to chip brush and stuff on [his] property[,]” as well as a wood splitter, which he uses to “cut and split wood on [his] property to burn in [his] house[.]” (Certified R., Ex. 26, Tr. 76:5-10, Feb. 12, 2026 (303).) This conduct is not the same as Appellant’s activities, which, as discussed earlier, amount to a commercial firewood operation. Thus, Appellant does not demonstrate that he was “selectively treated” as compared to anyone “similarly situated.” *See Providence Teachers’ Union Local 958, AFL-CIO, AFT*, 888 A.2d at 954. Moreover, Appellant points to no conduct by the Board or anyone acting on behalf of the Town which even suggests “bad faith intent to injure.” *See id.* at 955. Therefore, Appellant’s selective-enforcement equal protection claim also fails.

IV

Conclusion

For the foregoing reasons, Appellant’s appeal is denied, and the Board’s decision is affirmed. Counsel shall submit the appropriate order for entry.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: Labossiere v. The Town of Exeter Zoning Board of Review, et al.

CASE NO: WC-2026-0156

COURT: Washington County Superior Court

DATE DECISION FILED: July 28, 2026

JUSTICE/MAGISTRATE: Taft-Carter, J.

ATTORNEYS:

For Plaintiff: Dane E. Ardente, Esq.

For Defendant: Kenneth J. Sylvia, Esq.