

City of Keene
New Hampshire

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES

Monday, April 7, 2025

6:30 PM

**Council Chambers,
City Hall**

Members Present:

Richard Clough, Chair
Edward Guyot, Vice Chair
Adam Burke
Zach LeRoy, Alternate

Staff Present:

Evan Clements, Planner, Deputy Zoning
Administrator

Members Not Present:

Tad Schrantz
Stephen Tarbox, Alternate

I) Introduction of Board Members

Chair Clough called the meeting to order at 6:30 PM and explained the procedures of the meeting. Roll call was conducted. Chair Clough stated that Mr. LeRoy is a voting member tonight.

II) Minutes of the Previous Meeting: March 3, 2025

Mr. Burke made a motion to approve the meeting minutes of March 3, 2025. Mr. Guyot seconded the motion, which passed by unanimous vote.

III) Unfinished Business

Chair Clough asked if there was any unfinished business. Mr. Clements replied no.

IV) Hearings

- A) **ZBA-2025-02:** Petitioner, Marcia Parody of 61 Aldrich Road, represented by Wendy Pelletier of Cardinal Surveying & Land Planning, requests a variance for property located at 53 Aldrich Road, Tax Map #234-010-000. This property is in the Rural District and is owned by Marcia Parody. The Petitioner requests a variance to permit the replacement of an existing dwelling with a new dwelling while maintaining the current 38 foot setback where 50 feet is required per Article 3.1.2 of the Zoning Regulations.

Chair Clough asked if the Petitioner is comfortable moving forward with a four-member board tonight. (Yes.) Chair Clough introduced ZBA-2025-02 and asked to hear from staff.

Mr. Clements stated that the subject parcel is an existing 12.2-acre lot with an existing single-family residence, detached garage, and associated site improvements. He continued that the residence was constructed in 1960, containing approximately 12,157 square feet of living area and it is located approximately 38 feet from the side property line. Most of the lot is characterized by steep slopes and wetlands. In their narrative, the applicant states that the existing house location is the only relatively flat portion of the lot suitable for development. The applicant seeks a Variance to demolish the existing residence and construct a new single-family residence in the general building area but not the same footprint as the existing residence.

Mr. Clements continued that the new residence will be located 38 feet from the property line to not encroach further into the side yard setback than the current site conditions. The Variance is required for the new residence to be located within the side yard setback as this proposal is categorized as the Relocation of a Non-Conforming Structure, which is only allowed without a Variance if the relocation would make the structure conforming.

Mr. Clements continued that surrounding uses include residential to the north, south, east, and west, predominantly single-family residential, as well as some undeveloped land to the east. The entire neighborhood is zoned Rural, with a small pocket of Low Density development in the northeast area near the intersection of Aldrich Rd. and Hurricane Rd. Relevant sections of the Zoning Ordinance include the purpose statement for the Rural District, which is *“intended to provide for areas of very low density development, predominantly of a residential or agricultural nature. These areas are generally outside the valley floor, beyond where water, sewer, and other City services can be readily supplied.”* The Dimensions and Citing Requirements for the Rural Zone is relevant, in that all yard setbacks – front, rear, and side – are normally 50 feet. The section for Relocation of a Non-Conforming Structure is 19.3.3, *“A non-conforming structure may not be relocated in whole or part to any other location on the same lot, unless such relocation would make the structure conforming.”* That is why they are here this evening.

Chair Clough asked if anyone had any questions for Mr. Clements. Hearing none, he asked to hear from the Petitioner.

Wendy Pelletier of Cardinal Surveying & Land Planning stated that she is here representing Marcia Parody. She continued that Mr. Clements did a great job introducing the lot. It is a 12-acre lot with an abnormal shape. At some point, a house lot was taken out from right in the middle of it, which makes building a house anywhere else on this lot almost impossible. They (she and Ms. Parody) did not explore the northeast side, but due to wetlands, slopes, and other terrain, it does not make sense to build a house there as they were going to look at subdividing. Thus, the Parody's considered tearing down the existing house, which was built in the 1960s, and building in the same location. As you can see in the picture displayed in the agenda packet, moving it even just a little bit would put it on the steep slopes. The picture of the house shows

that the stone wall is about 38 feet uphill from the house. Beyond this is the Parody's Monadnock View Christmas Tree Farm, which they own a large parcel behind the subject parcel where they plan to replace the house with one very similar in size.

1. *Granting the Variance would not be contrary to the public interest.*

Ms. Pelletier stated that the existing dwelling will be replaced with a new dwelling that is no closer [to the setbacks] than the existing dwelling. She continued that it does not threaten public health, safety, or welfare.

2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

Ms. Pelletier stated that as Mr. Clements said, it is rural development, and this house will not change the feel of the neighborhood as everything is very rural out there. The new house will still be in the same place, and it will still be a small dwelling.

3. *Granting the Variance would do substantial justice.*

Ms. Pelletier stated that it does not alter the character of the neighborhood, and as they said, due to the unique shape of the lot, there is no place else on this parcel that is practical to build on, other than right in that space, which would do justice for the client.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*

Ms. Pelletier stated that the house will remain the same. She continued that it actually might improve other properties, because the value of the house will be more than it is now since the current house is getting a little run down.

5. *Unnecessary Hardship*

A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because*

i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:*
and

ii. *The proposed use is a reasonable one.*

Ms. Pelletier stated that the special conditions of this property (are) the shape of the lot and where the existing dwelling sits, along with the slopes and wetlands that distinguish this from other lots in the area. She continued that the 50-foot setback would not work on this property. They feel that this is a fair waiver to ask for as it does not change anything. The proposed use is reasonable since it will remain a residential use, and it will not be increasing the non-conformity.

Chair Clough thanked Ms. Pelletier and asked if Board members had questions.

Mr. Guyot asked if the 38-foot measurement is on the straight boundary line on the righthand side, next to the Christmas tree farm property, or if it is to the front. Ms. Pelletier replied that it is on the side. She continued that page 30 of the handout is a copy of the site plan they surveyed, and the 38 feet is the closest corner on the dwelling.

Mr. Burke asked if it is correct that Ms. Parody also owns the lot next to it, for the Christmas tree farm. Ms. Pelletier replied yes, the Parody's own the abutting lot.

Chair Clough asked if there were further questions. Hearing none, he thanked Ms. Pelletier and stated that there might be more questions later. He asked for public comment, beginning with anyone wishing to speak in opposition. Hearing none, he asked if anyone wanted to speak in support. Hearing none, he closed the public hearing and asked the Board to deliberate.

1. *Granting the Variance would not be contrary to the public interest.*

Mr. Burke stated that he thinks they meet this legal criterion. He continued that there is no harm to public safety or the neighborhood character, based on the application.

Mr. Guyot stated that he agrees. Chair Clough stated that he agrees as well.

2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

Mr. Burke stated that he thinks this meets the criteria. He continued that it maintains the existing non-conforming setback without any encroachment beyond the 38-foot setback it currently allows.

Mr. Guyot stated that he would also add that from a sideline perspective, the bulk of the proposed dwelling is actually further away from the lot line than the existing dwelling corner. Looking at the site plan, it seems to him that it will look like it is further away. He asked if that is a garage or bump-out. (Unidentified speaker) replied that it is a small garage. Mr. Guyot stated that he thinks it meets the criteria.

Chair Clough replied yes, it is still a dwelling, still single-family, and it would not encroach any closer than the existing one, essentially.

3. *Granting the Variance would do substantial justice.*

Mr. Guyot stated that he thinks from the owner's perspective it does do substantial justice. They brought up in the application that the unique shape and the slopes of the lot cause the challenge here, and this is the only place the (dwelling) can go. Looking at the slope, halfway through the house, there is close to a 5- to 10-foot drop. Thus, it is a unique site and rather challenging.

Chair Clough stated that he agrees. He continued that looking at the parcel layout, if they did not place the house in the section they are placing it in, they would have to put in a driveway that goes all the way up to the larger section. If he is correctly guessing what the topographical lines would be, they would still probably be running very close to the 38 feet, because that is the higher ground and everything else slopes away from it. It looks like it slopes down into wetlands. Thus, it is not all that big an area that would be buildable. He does not see how they could site it anywhere else on the property.

Mr. LeRoy stated that the fact that they are basically just replacing the existing home in the same location, for the most part, makes the most sense.

Chair Clough replied yes, because otherwise they would be extending the driveway. He continued that he does not know what the water situation is, but it would be a significant change in all the services if they tried to relocate it, with possibly not gaining more than a few feet of setback.

4. *If the Variance were granted, the values of the surrounding properties would not be diminished.*

Mr. Burke stated that he thinks it meets that criterion. He continued that if anything, he thinks it will improve the value of the properties, because they are updating the existing structure.

Mr. LeRoy stated that he agrees. Mr. Guyot stated that he agrees, too.

5. *Unnecessary Hardship*

A. *Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship*

Mr. Burke stated that the wetlands and the slope surfaces on the property provide a hardship to try to move (the dwelling) to meet the setback requirements. He continued that he would say it meets the criterion.

Mr. LeRoy stated that he agrees on all points.

Chair Clough stated that when you look at the map and realize the other building lot that was chopped out of it would have probably been the only other place you could have built, had it all been one contiguous unit, makes that the case. He continued that he does not see any solution that would not be very costly and not be much of a gain.

i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:*

Chair Clough stated that he does not see how trying to enforce a 50-foot setback, when there is no place else to build it, would be doing justice. He continued that he does not think it does disservice to the existing Ordinances.

and

ii. The proposed use is a reasonable one.

Chair Clough stated that he sees the Board members nodding their heads. He continued that it is a domicile, so there is no change in the usage, with essentially the same footprint and same placement. All the other setbacks are fine except for this one.

Chair Clough asked if anyone had anything else to add. Hearing none, he asked for a motion.

Mr. Burke stated that he would like to make a motion to approve ZBA-2025-02 and asked for assistance with the correct wording of the motion. Mr. Clements provided assistance.

Mr. Burke made a motion to approve ZBA-2025-02, a request for a variance for property located at 53 Aldrich Road, Tax Map #234-010-000, in the Rural District and owned by Marcia Parody. The Petitioner requests a variance to permit the replacement of an existing dwelling with a new dwelling while maintaining the current 38-foot setback where 50 feet is required per Article 3.1.2 of the Zoning Regulations. Mr. Guyot seconded the motion.

1. Granting the Variance would not be contrary to the public interest.

Met with a vote of 4-0.

2. If the Variance were granted, the spirit of the Ordinance would be observed.

Met with a vote of 4-0.

3. Granting the Variance would do substantial justice.

Met with a vote of 4-0.

4. If the Variance were granted, the values of the surrounding properties would not be diminished.

Met with a vote of 4-0.

5. Unnecessary Hardship

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

and

ii. *The proposed use is a reasonable one.*

Met with a vote of 4-0.

The motion passed unanimously with a vote of 4-0.

V) New Business

Chair Clough asked if there was any new business. Mr. Clements replied no.

VI) Staff Updates

Mr. Clements stated that given tonight's questions about the wording of motions, he would like to offer to include suggested motion language in the staff report for future meetings. He asked if the Board is comfortable with that. Chair Clough replied yes.

A) Master Plan Update

Mr. Clements stated that the City is going through a Comprehensive Master Plan update, and he encourages everyone to check out *keenemasterplan.com*. He continued that Staff and the Master Plan Steering Committee just finished six strategic pillars, which will be the main tenets of the document itself. Another Future Summit is scheduled for June 3 of this year, at which they will release the draft document. Another survey will go out in the next week or so, to get final feedback on the strategic pillars, the overarching strategies, along with the goals and action items. They are also working on the Future Land Use Map, to look at the zoning districts and the current development pattern in the city, and to see what they like and what they would like to change. Unsurprisingly, everyone is looking for more opportunities for housing, as well as other uses.

B) Council Actions Annual Reporting

Mr. Clements stated that Councilor Haas made a request to City Council, which the Council discussed. He continued that the Council is requesting an annual briefing on the business of all the City's boards, committees, and commissions. It will take a low amount of effort. The chair or representative can give that presentation in person if they choose or send a brief letter to the Council. The Board can work with staff support/himself to figure out what makes the most sense. It seems to be voluntary, but staff is in support of all the boards and commissions checking in periodically with the Council.

Mr. Clements continued that the ZBA's business is statutorily rigid, and well-documented, so it might not be as exciting of an exercise as it could be for boards doing more creative work that does not always get the attention it deserves, such as the Heritage Commission or Energy and

Climate Committee. Thus, these reports to Council are a good opportunity for those types of bodies. But it is also a good opportunity for the ZBA to check in with the City Council and let them know what the ZBA is doing.

Chair Clough asked if Mr. Clements could give the ZBA a heads up, say a month or two before the Council is expecting a report from them. He asked if the ZBA would then work together to create a report, or if Mr. Clements would just need to talk with him (Chair Clough) about that. Mr. Clements replied that it is up to the Board. He continued that it will probably be the Chair's responsibility to write the letter or attend a meeting of whichever Council subcommittee is most appropriate for the ZBA's presentation.

Chair Clough asked for the Board's thoughts. Mr. Guyot stated that it looks like the Council wants a report around July 1. Mr. Clements replied yes, that is the initial target.

Jay Kahn, Mayor, stated that he noticed that the ZBA has had a leadership transition, and he wanted to come and thank the Chair and Vice Chair for stepping up, and thank the ZBA members for being consistent and active members. It is an important board, quasi-legislative. The ZBA's actions are final unless they are appealed.

He continued that he would like to reflect on a possible schedule for the ZBA to think about for their report. The State legislative session is going on, with a lot of re-thinking around zoning and whether there is going to be a Zoning Board of [Adjustment], or if they go back to the courts for determinations of appeals. He is not sure how it will all work out. However, the ZBA might think about how their work over this past year has translated into what kind of volume. The City does not aggregate that information very much for any of the committees and boards. For example, maybe the ZBA has had 20 or 30 appeals in a year – many people do not know. That might be the kind of public interest the Council would be interested in – how many applications were approved, or how many were sent back for an additional hearing, although the ZBA does not usually do that. They could also [mention] what some of the ZBA members' concerns are relative to these legislative transitions, give a heads up on issues the ZBA is concerned about, and thoughts on how to adjust. He does not think they need to wait for the end of a fiscal year or calendar year, necessarily. They could take advantage of a time when other committees are not seeking to do their reports at the same time. Because of the ZBA's quasi-legislative function and how it relates to the State government, it might make sense to look to that schedule.

The Mayor continued that he also recommends the ZBA work with their staff liaison. Staff have the ZBA's records in good order. He reads them himself. They could target the delivery of the report to Council for perhaps October where he thinks the ZBA Chair should attend the meeting in case there are questions. He thanks the ZBA for all they are doing, which he appreciates. If anyone has suggested nominees for new members, he welcomes those names as he would like to fill in the ZBA's membership.

Mr. Clements stated that the Mayor made a good point – information about how many cases the ZBA has had and what action they have taken on those cases would be easy to put together. He continued that that would be a great tidbit of information for the City Council. It is an interesting situation. Generally speaking, they do not want Variance applications, because they want people to work within the Zoning Ordinance, but if the ZBA is getting the same requests for the same Variances repeatedly, it is great to be able to track that. They might then think, “Maybe it is time to change the Zoning Ordinance, because obviously, this is not working how we want it to be working.”

Mr. Clements stated that the Board members might be following what is going on in the legislative session at the State level. He continued that there are many potential changes to local control and what authority municipalities have for their Zoning Ordinances. It is worth checking out. If Board members have opinions, they should contact their representatives about them.

Chair Clough thanked Mr. Clements and the Mayor and asked if anyone else had anything to add.

VII) Communications and Miscellaneous

VIII) Non-Public Session (if required)

IX) Adjournment

There being no further business, Chair Clough adjourned the meeting at 7:03 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Reviewed and edited by,
Corinne Marcou, Board Clerk