



## City of Keene Zoning Board of Adjustment

### AGENDA

**Monday, January 5, 2026      6:30 p.m.      City Hall, 2<sup>nd</sup> Floor Council Chambers**

- I. Introduction of Board Members:
- II. Vote for Chair & Vice Chair
- III. Minutes of the Previous Meeting: November 2, 2025
- IV. Unfinished Business:
- V. Hearings:

**ZBA-2026-01:** Petitioner, Samuel & Cassie Brown, of 56 Birch St., requests a Variance, for property located at 56 Birch St., Tax Map # 538-047-000-000 and is in the Low-Density District. The Petitioner is requesting a Variance to permit a garage addition that will encroach approximately 2.5 ft into the 10 ft side setback, per Article 3.3.2 of the Zoning Regulations.

- VI. New Business:
- VII. Staff Updates:

Rules of Procedure Adoption

- VIII. Communications and Miscellaneous:
- IX. Non-Public Session: (if required)
- X. Adjournment:

Page intentionally left blank

**City of Keene  
New Hampshire**

**ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES**

**Monday, November 3, 2025**

**6:30 PM**

**Council Chambers,  
City Hall**

**Members Present:**

Richard Clough, Chair  
Edward Guyot, Vice Chair  
Tad Schrantz  
Adam Burke  
Zach LeRoy

**Staff Present:**

Evan Clements, Planner, Deputy Zoning  
Administrator

**Members Not Present:**

**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.

**II) Minutes of the Previous Meeting: October 6, 2025**

Mr. Burke made a motion to approve the meeting minutes of October 6, 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) CONTINUED ZBA-2025-08: Petitioner, Michael Pappas, of 147-151 Main Street, LLC, represented by Timothy Sampson, of Sampson Architects, requests an Extension, for property located at 147 Main St., Tax Map # 584-060-000-000 and is in the Downtown Core District. The Petitioner is requesting an extension for a Special Exception granted on August 7, 2023, per Article 26.6.9 of the Zoning Regulations.**

34 Chair Clough introduced ZBA-2025-08 and asked to hear from staff.  
35

36 Mr. Clements stated that the property at 147-151 Main St. is an existing vacant parcel located on  
37 the northwest corner of Main St. and Davis St. with the Cumberland Farms Gas and  
38 Convenience across the street to the east. He continued that the property used to contain a two-  
39 story, brick construction, mixed-use building known as the Cobblestone building. However, the  
40 lot is currently vacant after a fire forced the demolition of the Cobblestone building. In 2023, a  
41 boundary line adjustment was approved by the Planning Board for the subject parcel, an adjacent  
42 lot to the west at 0 West St., and the adjacent lot to the north at 143 Main St. as part of a larger  
43 plan to redevelop the site. The property also received a Special Exception from the ZBA to allow  
44 for a drive-thru as was required from Section 8.4.2.C.2 of the Land Development Code (LDC)  
45 for parcels located in the Downtown Core Zoning District. The LDC has since been amended to  
46 prohibit the drive-thru in the Downtown Core. The purpose of this application is to request an  
47 extension of the approved Special Exception from 2023. The Special Exception permitted a  
48 drive-thru use to accommodate a pick up only drive-thru lane for pre-ordered food items. The  
49 drive-thru was not proposed to have an order board or be designed to allow for orders to be  
50 placed. The meeting minutes from that meeting were included in tonight's agenda packet and  
51 outline the original request.

52  
53 Mr. Clements continued that the only condition put on that original approval was that "*no*  
54 *exterior order board be present.*" The Staff Report includes some basic terms, including the  
55 definition of "drive-thru use" as well as the use standards currently in the LDC, and the approval  
56 standards for a Special Exception. Regarding some additional considerations for the extension  
57 request, the board will need to determine if the established findings of facts and conditions of the  
58 approved Special Exception are still applicable to the property and proposed project, and that the  
59 extension request is warranted for good cause. "Good cause" is a substantial reason or  
60 justification for why the Special Exception has not yet been acted on by the applicant and  
61 includes a reasonable plan on how the applicant intends to act on the Special Exception within  
62 the timeframe granted by the extension. The board will need to determine a reasonable and  
63 realistic amount of time to grant the extension for. Suggested conditions are the same as what  
64 was previously conditioned on the approval, if the board is inclined to approve the request.

65  
66 Chair Clough stated that when they get to the point of voting, they will have to go through the  
67 seven standards and vote on each. He asked if everyone has seen the Special Exception criteria,  
68 which are different from the Variance criteria. Mr. Clements replied that it is correct, the same  
69 Special Exception criteria apply to this application as if it were a brand new application.

70  
71 Chair Clough asked if the board had any questions for staff. Hearing none, he asked to hear from  
72 the Applicant.

73  
74 Eli Leino stated that he is an attorney with Bernstein Shur in Manchester, and has spent plenty of  
75 time in Keene, as his parents still live here. He continued that he thanks the board for their  
76 patience, as Mr. Pappas, the principal of 147-151 Main St. LLC, has been working to get this

77 extension filed. First is the piece that Mr. Clements mentioned, regarding how the Ordinance has  
78 changed. It is important to consider that because this is an extension, even though it is considered  
79 as a new application, it should still be considered under the previous criteria, otherwise there is  
80 no reason to have extension language, which violates canons of construction when you consider  
81 a statute like the LDC. This is in the Downtown Core district. If this had lapsed without an  
82 extension request, they would need a Variance, as was discussed, but as the Chair mentioned,  
83 they are here under the same seven criteria that were considered two years ago. Section 26.6.9 of  
84 the LDC, A. says, *“A Special Exception granted by the Zoning Board of Adjustment shall be*  
85 *valid if exercised within two years from the date of final approval, or as further extended by the*  
86 *Zoning Board of Adjustment for good cause.”*  
87

88 Mr. Leino continued that before he gets into the criteria, he wants to discuss the “good cause.”  
89 Everyone here knows that it has been a difficult time to build, even though there has been a huge  
90 amount of desirability for housing and mixed use as they are proposing here. However, rates had  
91 been stuck at not historically high rates, but recent historically high rates for at least the full two-  
92 year period. They are trying to redevelop a site where the building previously was from 1926 and  
93 had myriad uses ranging from a grocery store to a deli to various other commercial uses on that  
94 first floor, up through the final iteration prior to the fire, which was the Dominos, the Piazza, and  
95 the Cobblestone. It was easy enough on a nice downtown block, abutting the college and near all  
96 the downtown amenities, to put something in this building. The good cause and challenge the  
97 Applicant has had is trying to rebuild from start in a time when building input prices have been  
98 very high and tariffs have come in. They are starting from scratch to build a building where they  
99 can get an anchor tenant in that commercial space. They will not have any issue renting units to  
100 residential uses. It is great for that, right by the college, right downtown. They need to be able to  
101 build a building that is of the character required of the beautiful downtown, as this is a three-  
102 story brick building with character. They are not trying to put up a steel industrial box that looks  
103 awful; they want something that Keene can be proud of that works for the location and carries on  
104 the history of success in this location. To do so, “this needs to pencil out.” They cannot just build  
105 it and hope that anchor tenant comes. They have talked with different commercial tenants, in  
106 trying to figure out ways, along with Tim Sampson, the architect on this project, working with  
107 different end users to try to draw something/build something that makes sense so they can get a  
108 reasonable rate of return on the property in the commercial piece, which has been a challenge.  
109

110 Mr. Leino continued that the drive-thru in the design is not the type where a driver stops to say  
111 their order and you hear chirping at all hours, with cars stacking in a queue every morning. This  
112 is a more modern take on the drive-thru concept, where you order food through an app on your  
113 phone, the app tells you when your food will be ready, and you plan to either walk up and pick  
114 up your order, or drive through and pick it up, understanding that your goal is not to queue there  
115 for 10, 15, or 20 minutes. Your goal is to time it as well as you can so that you can drive through.  
116 Thus, the back parking lot has a limited number of spaces, generally for employees. More  
117 parking is on Davis St. and in the front. The point is for it to open onto Davis St. and set you into  
118 a spot where you are not adding a significant amount of traffic to Main St., but you could come  
119 in from Main St. with a right turn. You cannot turn left back onto Main St. You either continue

120 on Davis St. or turn right. Thus, in terms of traffic considerations, this is about as well-contained  
121 as you could ask for because it is not a big draw drive-thru that people would see and want to  
122 stop at, like the ones on West St. This is not a drive-thru like McDonalds.

123  
124 Mr. Leino continued that he is ready to address the criteria, unless the board has any questions  
125 first about the good cause element. Chair Clough stated that a few board members are realtors  
126 and are aware of the difficulty of construction and loans and things like that. He continued that to  
127 him, that is enough, but he welcomes others' thoughts.

128  
129 Mr. LeRoy asked if it is correct that Mr. Leino said they do not have an anchor tenant. He asked  
130 if this is being asked for so they have the option for a potential anchor tenant. Mike Pappas,  
131 property owner, stated that Little Caesars is the business they have been working with the most,  
132 which is why the drive-thru is designed in the way Little Caesars has been operating for the past  
133 10-12 years. It is not the type of drive-thru where people place their orders. He continued that to  
134 add to what Mr. Leino said, if you pull up to the window and your order is not ready or you have  
135 not placed an order, the employee tells you to keep going, or to go park somewhere and order  
136 with your phone app. It is a pick-up window only. They can process cars at a high rate, because  
137 they do not even have a menu board or light. That is the way Little Caesars has done it, and the  
138 way this design proposes doing it. If there were a different tenant with a different type of drive-  
139 thru, he would have to apply for something different. The only tenant they are looking for now is  
140 one that can handle that type of pick-up window. Mr. Leino added that they will go over those  
141 points as they get into the criteria, because it gets into public health, safety, and welfare, and  
142 traffic considerations.

143  
144 Mr. LeRoy stated that the board does not have any elevations or diagrams of the lot in the agenda  
145 packet. He asked if the Applicant has anything the board can look at. Mr. Leino replied yes, he  
146 has taken notes on his copy, but he can give it to the board now. He continued that they will see  
147 his notes, where he has drawn in some of the traffic circulation and the screening the Ordinance  
148 requires.

149  
150 Chair Clough asked if these are the same elevations from two years ago, with a little bit of glass  
151 façade on the first floor. Mr. Pappas replied yes, a three-story brick building with some character  
152 designs. He continued that it theoretically looks just like the last one.

153  
154 Mr. Pappas stated that Little Caesars is looking for something approximately 2,000 square feet,  
155 which leaves another couple thousand square feet for one other unit. He continued that there is  
156 not enough room with what Little Caesars needs to have their facility set up the way they do with  
157 refrigeration, drive-thru, and so on and so forth. It only leaves one other first floor commercial  
158 tenant, which he does not have yet. Mr. Leino stated that it brings them back to the point, again,  
159 that if they have an anchor tenant, they can have another tenant that is maybe more local, less of  
160 a national tenant, which gives some opportunities for the building.

161

162 Chair Clough stated that there used to be three commercial tenants on the first floor. He asked if  
163 they are just looking for two this time. Mr. Pappas replied yes, that is the plan.

164  
165 Mr. Schrantz stated that the ZBA is not the Planning Board and does not review elevations or site  
166 plan layout, but in this case, the site plan is interesting in that it is the request for the drive-thru.  
167 He continued that they did not get a site plan in their agenda packet. He does not know if it was  
168 part of the previous application. He is interested in hearing more about the traffic patterns and  
169 whether a traffic study was done. He does not think that is under the ZBA's purview, but  
170 probably one of the big concerns is how much traffic would be added to Main St. and side streets  
171 like Davis St. by continuing to allow the use.

172  
173 Mr. Leino replied that the potential tenant gave them information about what sort of numbers  
174 they expect at a location like this. He continued that yes, traffic is a Planning Board matter, but  
175 the third criterion for the ZBA to consider is, "*The proposed use will be established, maintained,*  
176 *and operated so as to be harmonious with the surrounding area,*" which gives them the foothold  
177 into asking about what the elevation looks like and whether this will be harmonious with St.  
178 Bernard's on one side and the rest of the buildings on Main St. He thinks this is a broader  
179 discussion than they would be having if they were under 674:33.

180  
181 Chair Clough stated that it is only take out and there is no seating for eating. He continued that it  
182 is possible that someone would lean against a wall if they had to wait a couple moments, but that  
183 is all they are looking at. It is not a restaurant, not sit-down style. Mr. Pappas replied that is  
184 correct.

185  
186 Chair Clough asked if there were further questions about good cause. Hearing none, he asked the  
187 Applicant to go through the criteria.

188  
189 Mr. Leino stated that under Section 8.4.2.C.2 of the LDC, they are requesting a Special  
190 Exception for a drive-thru, based on the previous iteration of the Code. He continued that a  
191 drive-thru is permitted by Special Exception in the Growth District and the Transition District,  
192 which this is close to. The next property across the street to the south, for example, could ask for  
193 a Special Exception for a drive-thru. This property is not far outside the area the Code considers  
194 appropriate for this by Special Exception.

195  
196 *A. The nature of the proposed application is consistent with the spirit and intent of the*  
197 *Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies*  
198 *with all applicable standards in this LDC for the particular use.*  
199

200 Mr. Leino stated that with the obvious caveat that they are going from the previous version of  
201 this, they believe it does still apply in that case. He continued that this is still in the Downtown  
202 Core District, right on the edge of those other two districts, and they have the opportunity to  
203 build something where high intensity mixed uses, including commercial, residential, civic, and  
204 cultural uses are expected and proposed. The Applicant is doing that in keeping with this, with a  
205 small number of residential units upstairs, which there is a clear need for in New Hampshire and

206 in Keene. Having the opportunity to fund the construction of this building by having the  
207 commercial tenants is the opportunity to make sure this space does not sit for a long time, which  
208 is the risk of any development property. It is worth considering even on that lot that the former  
209 gas station on the other corner of the property across from Athens is “a bit of a blight” on the  
210 downtown landscape because it has not been developed. This is an opportunity where the board  
211 can give the Applicant the extension and give them the opportunity to continue here with  
212 something that the Master Plan and the LDC are looking for.

213

214 *B. The proposed use will be established, maintained and operated so as not to endanger the*  
215 *public health, safety, or welfare.*

216

217 Mr. Leino stated that the site plan will be reviewed by the Planning Board, but he wants to tell  
218 the ZBA why it is a valid site plan that will not affect public health, safety, or welfare in much  
219 the same way as if they were talking about a Variance. He continued that by separating the use  
220 so that they put the mass of the building up on the Davis St. and Main St. corner, they create the  
221 parking circulation behind it. Obviously, Main St. has much more traffic than Davis St. Again,  
222 you can only make a right onto Davis St. from Main St., and you can only make a right back  
223 onto Main St. In thinking back to the way Domino’s Pizza at this location used to work, you  
224 would pull in and pick up your pizza, which maybe you had ordered on the app or on the phone.  
225 You had to navigate the site to get there, and you were on the Main St. side of it. In terms of  
226 promoting health, safety, and welfare, the Applicant has separated that so that the uses are  
227 toward the back. You drive your car in and drive your car out, and you may never end up getting  
228 to Main St. if you are, for example, going back to Keene State College. This is a better way to do  
229 it. They had the ability on a 1926 building to rent what was there because you did not have to  
230 pay the building costs. Now, they unfortunately have the burden of building this, but with the  
231 opportunity to redesign it as something that works for this century instead of 100 years ago.

232

233 Mr. Leino stated that one point that Mr. Pappas has already raised is that there is queuing room  
234 of 145 feet, so you are not creating a tail onto Davis St. When site plan reviews were done on the  
235 other drive-thrus he worked on, the question was always how many cars they could safely have  
236 and what happens if there is overflow. Here, the point is that there will not be overflow, because  
237 if it is not your turn, you are told to go somewhere else, park, and come back when it is your  
238 turn. Thus, as people figure out the efficiency of this method, they should just go through quickly  
239 and safely, circulate the site onto Davis St., with a righthand turn onto Main St. They will not be  
240 crossing traffic, because it is not even possible, given that it is divided. Health, safety, and  
241 welfare are very much in play.

242

243 *C. The proposed use will be established, maintained, and operated so as to be harmonious*  
244 *with the surrounding area and will not impede the development, use, and enjoyment of*  
245 *adjacent property.*

246

247 Mr. Leino stated that the application has a couple of things going for it regarding this criterion.  
248 He continued that one is that the same principals own the building directly next door, so they do  
249 have a buffer zone in terms of their most affected abutter. Second, as shown on that proposed  
250 elevation, the Applicant wants this to be harmonious with the neighborhood, which is part of the  
251 reason they need this extension. They are not trying to build something cheap that does not fit.

252 They are trying to build something that *does* fit in, that they can be proud of and that will look  
253 good on Main St. for 100 years. Building any building costs money and is challenging. The point  
254 is they need a little more time to build something harmonious, but he thinks they will do so if the  
255 board grants this relief.

256  
257 *D. The proposed use will be of a character that does not produce noise, odors, glare, and/or*  
258 *vibration that adversely affects the surrounding area.*

259  
260 Mr. Leino stated that as they have already touched on, there is no customer seating here. He  
261 continued that it will be something where people come, people go; it makes the site perform  
262 well. They can think back to what this location was previously, and there certainly was noise or  
263 vibration when it was the Cobblestone. This is an opportunity to have everything built new, built  
264 to code, built to spec. It will be a nice building, for a much more demure use.

265  
266 *E. The proposed use will not place an excessive burden on public improvements, facilities,*  
267 *services, or utilities.*

268  
269 Mr. Leino stated that previously when this was considered, a different iteration of the ZBA found  
270 that there was not going to be an excessive burden on any of these. He continued that he would  
271 expect that to be the same. This is not a high water or sewer use, and he would expect this to  
272 have less of a municipal presence than the barroom did previously, which resulted in a five-alarm  
273 fire. That had nothing necessarily to do with the use, but the Applicant hopes to avoid that level  
274 of municipal engagement.

275  
276 *F. The proposed use will not result in the destruction, loss, or damage of any feature*  
277 *determined to be of significant natural, scenic, or historic importance.*

278  
279 Mr. Leino stated that unfortunately, this ship has sailed, in the fact that they have a blank slate  
280 here to build from a pad. He continued that it is as close to “N/A” as they will get.

281  
282 *G. The proposed use will not create a traffic safety hazard or a substantial increase in the*  
283 *level of traffic congestion in the vicinity of the use.*

284  
285 Mr. Leino stated that the proposed restaurant will have up to 20 employees with a maximum of  
286 four employees per shift. He continued that there is parking in the back for those employees.  
287 Customer sales are expected to average approximately 200 sales per day with approximately 60  
288 sales during the peak hour between 5:30 to 6:30 PM. The intersection at Main St. is right in, right  
289 out only, as discussed, and 60 vehicle trips during peak hour will not diminish the safety or  
290 capacity of Davis St. at Main St. Those numbers, especially in the downtown corridor, are fairly  
291 reasonable. Again, they have the beauty of it already being designed so that no one will come  
292 from Davis St. and decide to, say, stop at Cumberland Farms by going across four lanes. They  
293 would have to go around the traffic circle and back down. This has been nicely designed through  
294 care of the City and the redevelopment of the downtown corridor, so this will all work. They are  
295 not adding enough traffic here that it will snare up that issue. Also, it is not like there is a rush  
296 hour this would directly add traffic into.

297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339

Mr. Leino stated that that concludes the criteria. He continued that he understands the board’s concerns about how long this has taken so far. Mr. Pappas is focused on getting this done, and it will be good for the city, good for the downtown, and a nice opportunity to replace a “missing tooth” in the downtown and have something back up. It does take hard work and a little bit of time, and they asked the board for their consideration to that end so they hopefully can get the approval and get this built.

Chair Clough asked what, broadly speaking, is the anticipated number of residential units. Mr. Pappas replied 16 total, eight per floor. Chair Clough asked how many parking spaces they are talking about for that. Mr. Leino replied that for properties in the downtown core, there is no required parking for any use.

Mr. Guyot stated that he heard mention of the “adjacent zoning areas.” He asked what the closest boundary is to a zoning area that would allow a drive-thru by Special Exception, given that this drive-thru is on the Davis St. side behind Main St. Mr. Leino replied that he can show them on the document he has. He continued that next to their lot is Lot 21, then Lot 29, which is in that Downtown Transition District, which allows drive-thrus by Special Exception. The church complex across the street is the next abutter by law to the south and would be allowed a drive-thru by Special Exception.

Mr. Clements stated that the Staff Report has a zoning map.

Mr. Schrantz asked how long the extension would allow for, if the board approves the extension. He continued that his question for the Applicant is whether this will be an ongoing process, given that Little Caesars is not imminent, it does not sound like. He asked the Applicant to help them understand, if they approve this tonight, what it means from a timing standpoint.

Mr. Clements stated that his understanding is that it would be the same as if it were a new request, which gives it a two-year extension. He continued that the LDC also implies they could give a shorter extension, if the board thought that was appropriate. He encourages them to stick to the two-year extension. Speaking generally about development in the city, things are taking much longer than they would like. They generally would like to give applicants enough time to succeed and get things built.

Mr. Leino replied that the Applicant would appreciate a two-year extension. He continued that they understand they are at the mercy of the board here and that coming back again would be a bad idea.

Mr. Schrantz stated that maybe it is not the board’s purview, but he was wondering where the “60 vehicle trips during peak hours” figure came from. He asked if that was based on a study, or just information provided by the potential tenant. Mr. Pappas replied they were numbers provided by the potential tenant. He continued that the man who is interested in this corner owns

340 about 100 of them. Mr. Leino replied that he thinks the Institute of Traffic Engineering (ITE)  
341 would bear that out, and he has no doubt the Planning Board will ask for those numbers.

342

343 Chair Clough asked if there were more questions for the Applicant. Hearing none, he asked if  
344 members of the public wished to speak in opposition or in support of the project. Hearing none,  
345 he closed the public hearing and asked the board to deliberate.

346

347 *A. The nature of the proposed application is consistent with the spirit and intent of the Zoning*  
348 *Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all*  
349 *applicable standards in this LDC for the particular use.*

350

351 Mr. Guyot stated that he is okay with the first criterion, particularly given the answer to his  
352 question about the proximity to areas that would allow a drive-thru by Special Exception, plus  
353 the fact that the Code has changed between the original application and today.

354

355 Mr. Schrantz stated that it talks about the nature of the proposed application being consistent  
356 with the Zoning regulations, and they are outside of that boundary. He continued that he  
357 appreciates that they are basically across the street from the allowable. It is important to  
358 recognize that a lot of hard work was put into Zoning; a lot of planning and consideration went  
359 into the way things were determined. Thus, while he does not disagree with the application, it is  
360 important to recognize the efforts and hard work that has gone into thinking about where those  
361 lines are drawn.

362

363 Chair Clough replied that he agrees. He continued that they probably would not draw it halfway  
364 on a street or something like that. He can see that it was more convenient or made sense to end  
365 the zone at Davis St. Many of the ZBA's applications seem to be right on edges of zones where it  
366 could be this or that, and someone would like to have something permitted that would be allowed  
367 in the next zone over. He agrees that that does seem to be what the ZBA's task often is, and to  
368 not belittle all the Zoning work that has gone before, because it is a huge amount of work.

369

370 *B. The proposed use will be established, maintained and operated so as not to endanger the*  
371 *public health, safety, or welfare.*

372

373 Chair Clough stated that he felt that the second criterion was addressed. He continued that if they  
374 compare it to what was there previously, and the fact that there was a fire, he does not see that  
375 sort of thing happening with a new building, newly constructed, to a new Code, and a use that  
376 would have far fewer people, at least in that section.

377

378 *C. The proposed use will be established, maintained, and operated so as to be harmonious with*  
379 *the surrounding area and will not impede the development, use, and enjoyment of adjacent*  
380 *property.*

381

382 Mr. Guyot stated that he thinks the use of this proposed development is consistent with what is  
383 going on in the abutting properties. He continued that he sees no issues with the third criterion.

384

385 *D. The proposed use will be of a character that does not produce noise, odors, glare, and/or*  
386 *vibration that adversely affects the surrounding area.*

387  
388 Chair Clough stated that what was there before certainly produced more of almost all of those  
389 elements than this potential use would. He continued that he does not have a problem with this  
390 criterion. It looks like the board is fine with this one.

391  
392 *E. The proposed use will not place an excessive burden on public improvements, facilities,*  
393 *services, or utilities.*

394  
395 Chair Clough stated that it already has all of the infrastructure in place; it just has to be hooked  
396 up again. He continued that again, it will probably use less than what was used before, at least  
397 for the anchor tenant part of it.

398  
399 *F. The proposed use will not result in the destruction, loss, or damage of any feature determined*  
400 *to be of significant natural, scenic, or historic importance.*

401  
402 Chair Clough stated that as the Applicant stated, the fire took care of that. He continued that if  
403 there had been features of historic importance, it would have been the building that was there  
404 before, which had to be taken down. Again, this is a blank slate.

405  
406 *G. The proposed use will not create a traffic safety hazard or a substantial increase in the level*  
407 *of traffic congestion in the vicinity of the use.*

408  
409 Chair Clough stated that this was the biggest question two years ago. He continued that part of it  
410 was the fact that Aroma Joes on West St. had to come back to the ZBA because they did have  
411 issues with traffic backing up onto West St. However, that is a different type of drive-thru. He  
412 thinks that particular scenario was weighing heavily on the ZBA because they had approved that  
413 particular Variance at that time, so the board was a little hesitant when Mr. Pappas's application  
414 came before them a couple of years ago. As an aside, he does traffic counts for NHDOT, and  
415 usually Main St. has about 20,000 cars a day. If you just take the raw numbers projected by the  
416 potential tenant, that will happen in ten minutes or less. Thus, that is not a significant number of  
417 cars. The possibility of traffic backing up into Main St. was discussed two years ago but knowing  
418 how it would loop around onto Davis St. with 145 feet, as was stated, that would take care of  
419 that. Probably the only potential issue would be if a car or two queued up on Davis St. heading  
420 westbound, they might sort of be in the way in the exit. And at that point, people would not be  
421 traveling very fast. Based on everything the Applicant is saying, that should not happen, anyway.

422  
423 Mr. Schrantz stated that it is interesting that it was the biggest issue a couple of years ago. He  
424 continued that the projected number of 60 sales in an hour is approximately one per minute, and  
425 with 140 feet, you can stack seven cars. It is possible that it would potentially back up, but he  
426 does not think it is the ZBA's purview to dive deeply into traffic count numbers. The ZBA is  
427 looking to confirm there is not a safety issue here and looking at the larger picture. The Planning  
428 Board will deal specifically with traffic issues. It is interesting for the ZBA to talk about it, but

429 from his perspective, he does not think it creates a traffic safety hazard. Chair Clough replied that  
430 he sees other board members agreeing.

431  
432 Mr. LeRoy stated that they are talking a lot about the Main St. part of it, but not about the Davis  
433 St. part of it, regarding how much additional traffic will go onto those back roads. He continued  
434 that it concerns him that no one is here to speak up for that neighborhood. Looking at the  
435 abutters mailing list, you can see the letters were not mailed to anyone in that neighborhood,  
436 because those are all rental properties. Many people who will be affected by this were not even  
437 notified and will not know about this unless they are paying attention. That is concerning to him,  
438 thinking about even half of those cars going back and forth on Davis St. The school is not fully  
439 affected because it will be off those hours, but there are still college students walking through  
440 and people who live in that neighborhood. He brings this up because they keep talking about  
441 Main St., but Main St. is almost irrelevant because this additional traffic will be a drop in the  
442 bucket compared to how many other cars go by. Anyone who spends time behind on Davis St.  
443 knows that cars rarely go through there, and they are talking about a tremendous uptick of cars  
444 going through there.

445  
446 Chair Clough replied that he agrees that that is good to look at. He continued that at the closest  
447 intersection to the west, there is a commercial property and maybe one or two residential  
448 properties, and it is a little bit of a distance. They certainly will not get any traffic backup on  
449 Davis St. from that direction. It is hard to say what the traffic volume change would do. It is a  
450 four-way intersection.

451  
452 Mr. Schrantz replied that the Planning Board will take a good, hard look at traffic. He continued  
453 that he would not be surprised if they requested a traffic study to understand the turning counts  
454 and the sort of traffic that goes to the area, and that would be another opportunity for the  
455 neighbors to come and speak to it. He continued that the ZBA is talking about it a lot, so it is  
456 obviously a concern to them.

457  
458 Mr. Clements stated that to provide context for the Planning Board standards, 100 trips per day  
459 or 50 peak hour trips is a threshold for major site plan review. He continued that this project will  
460 trigger major site plan review for multiple reasons, but they are just at that cusp of additional  
461 traffic information being required for a project of this size.

462  
463 Chair Clough asked for a motion. Mr. Schrantz stated that Mr. Clements recommended the  
464 motion be for the two-year extension. He continued that he is interested in hearing the board's  
465 questions or comments on that. Chair Clough asked if two years is the default for the extension if  
466 the board does not specify. Mr. Clements replied yes, that is his understanding. He continued that  
467 they would have to specifically, as part of the motion, reduce that amount of time, if they wanted  
468 something other than two years.

469  
470 Mr. Guyot made a motion to approve ZBA-2025-08 for the extension of a drive-thru Special  
471 Exception for property located at 147 Main St., Tax Map #584-060-000-000, as shown in the

472 application and supporting materials received on July 17, 2025, with the following condition:  
473 that no exterior order board be present. Mr. Schrantz seconded the motion.

474

475 *A. The nature of the proposed application is consistent with the spirit and intent of the*  
476 *Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies*  
477 *with all applicable standards in this LDC for the particular use.*

478

479 Met with a vote of 5-0.

480

481 *B. The proposed use will be established, maintained and operated so as not to endanger the*  
482 *public health, safety, or welfare.*

483

484 Met with a vote of 5-0.

485

486 *C. The proposed use will be established, maintained, and operated so as to be harmonious*  
487 *with the surrounding area and will not impede the development, use, and enjoyment of*  
488 *adjacent property.*

489

490 Met with a vote of 5-0.

491

492 *D. The proposed use will be of a character that does not produce noise, odors, glare, and/or*  
493 *vibration that adversely affects the surrounding area.*

494

495 Met with a vote of 5-0.

496

497 *E. The proposed use will not place an excessive burden on public improvements, facilities,*  
498 *services, or utilities.*

499

500 Met with a vote of 5-0.

501

502 *F. The proposed use will not result in the destruction, loss, or damage of any feature*  
503 *determined to be of significant natural, scenic, or historic importance.*

504

505 Met with a vote of 5-0.

506

507 *G. The proposed use will not create a traffic safety hazard or a substantial increase in the*  
508 *level of traffic congestion in the vicinity of the use.*

509

510 Met with a vote of 4-1. Mr. LeRoy was opposed.

511

512 The motion passed with a vote of 4-1. Mr. LeRoy was opposed.

513

514 **B) ZBA-2025-19: Petitioner, Scott and Eileen Adams, requests a Variance for**  
515 **property located at 509 Hurricane Rd., Tax Map #222-017-000 and is in the Rural**

516 **District. The Petitioner is requesting a Variance to permit street access up to an**  
517 **approximately 18-degree slope per Article 9.3.4.C of the Zoning Regulations.**  
518

519 Chair Clough introduced ZBA-2025-19 and asked to hear from staff.  
520

521 Mr. Clements stated that the subject parcel is an existing 5-acre lot with 781 feet of frontage,  
522 located on the eastern side of Hurricane Rd., approximately 1.5 miles southeast of the  
523 Westmoreland municipal boundary. He continued that the property contains an existing single-  
524 family residence, a barn, additional outbuildings, and associated site improvements. The property  
525 is characterized by steep slopes along the property frontage and throughout the lot area. A  
526 contour map was included with the Staff Report. The street access that serves the single-family  
527 residence is located about 430 feet to the south of the proposed agricultural street access. The  
528 Applicant had previously submitted a street access permit application to seek approval for this  
529 second agricultural street access point in their property. The application was originally denied by  
530 the City Engineer due to deficiencies in the proposal related to sight lines and material for the  
531 drive and slope. Planning staff and the City Engineer were able to resolve the issues related to  
532 sight lines and the material of the driveway. The Applicant was also able to seek a driveway  
533 exception from the Driveway Standards in Article 23 of the LDC to allow for a second street  
534 access point on a residential lot. Normally, a residential lot is only allowed with one street access  
535 permit without the exception.  
536

537 Mr. Clements continued that the intent of the application is to seek relief from the 15-foot slope  
538 limit for a driveway to permit the installation of a permanent, limited access agricultural street  
539 access point. The access is proposed to be used to navigate a tractor to the northern portion of the  
540 property. Regarding application analysis, Section 9.3.4 of the LDC, Grading and Drainage, says,  
541 *“Driveways and associated parking spaces shall be graded to prevent drainage across*  
542 *sidewalks, curb cuts, streets, or onto adjacent property, except that portion of the driveway*  
543 *within the public right-of-way may drain toward the street. Driveways and associated parking*  
544 *spaces shall not block the flow of drainage and gutters or drainage ditches or pipes.”* He  
545 continued that C. says, *“Driveways and associated parking spaces shall not have a slope greater*  
546 *than 15%.”* He has prepared two conditions for this application if the board is inclined to  
547 approve the request. Both are related to a change in use of this agricultural street access. One is,  
548 *“The street access/driveway shall not be used to connect any building or structure to the public*  
549 *right-of-way.”* The second is, *“If the property is ever subdivided, this street access/driveway*  
550 *shall not be used to connect any building or structure to the public right-of-way unless it is*  
551 *redesigned and reconstructed to conform to all street access and driveway regulations.”*  
552

553 Mr. Clements continued that the Public Street Access Standards in Article 23, and to a great  
554 extent, the Driveway Regulations in Article 9, do not really contemplate anything besides what  
555 you would imagine as a suburban/urban single-family or two-family driveway curb cut. There is  
556 one reference in the list of street accesses that the City Engineer has the purview to approve  
557 without going to the Planning Board. That references agricultural street access. The LDC does  
558 not have a definition for “agricultural street access,” nor does it have specific, different

559 regulations for it. It is just a one-off acknowledgement that “agricultural street access” might  
560 exist, and it might be a situation the City Engineer is confronted with, but the LDC gives no  
561 guidance on how to handle something like that differently than a paved connection point to a  
562 single-family or two-family residence. He specifically says, “single-family or two-family,”  
563 because those are allowed to be approved administratively through the City Engineer’s Office.  
564 Any other kind of new curb cut has to go to the Planning Board, and the Planning Board has  
565 some increased flexibility in making that decision. However, the slope requirement is in the  
566 Zoning Ordinance, so the Planning Board has their own hands tied for that as well.

567  
568 Mr. Schrantz asked if this has to go to the Planning Board if the ZBA approves the 15%  
569 Variance. Mr. Clements replied no, it does not. He continued that this is the last hurdle. Since it  
570 is a single-family residence, they got the exception to have the second curb cut, so granting them  
571 the Variance for the slope will allow the City Engineer to issue the driveway permit for this  
572 situation.

573  
574 Mr. Schrantz stated that regarding the proposed motion, the first qualification is, “*The street*  
575 *access shall not be used to connect any building or structure to the public right-of-way.*” He  
576 continued that he thinks that goes toward the idea that it should not serve a house, barn, or  
577 something else. The goal is to gain access so you can get to the garden and farm up on land that  
578 is less accessible from the existing driveway. It does not talk about agriculture, and he thinks he  
579 did not put that in there because it is not part of the description that he is providing. He asked if  
580 that is correct, or if there is a way to restrict it to agricultural use only.

581  
582 Mr. Clements replied that this is suggested language. He continued that he encourages the board  
583 to alter the language as they see fit. He wanted to be specific by referring to “*any building or*  
584 *structure,*” because if you just say, for example, “*shall only be used for an agricultural use,*” in  
585 the state of NH, “agricultural use” is extremely broad. You could easily attach a barn to this and  
586 argue that a barn is an agricultural use, and the board said it could be used for an agricultural use.  
587 That is why he chose to recommend “*any building or structure*” as opposed to keeping it broad.  
588 If the board thinks it is more appropriate to say, “*limited to agriculture,*” that is their decision to  
589 make. Mr. Schrantz replied that the board does not discuss these things except in public, so the  
590 reason for his question was to understand the thought process that gets them to those words.

591  
592 Mr. Schrantz stated that Mr. Clements mentioned that the City Engineer looked at this. Looking  
593 at the site plan, it looks like the driveway is very close to the north property line. He asked if  
594 there are any requirements for a distance from the property line for a secondary access or  
595 whatever they call this. Mr. Clements replied yes, it would be three feet, as required by Article 9.  
596 He continued that it is greater than three feet away from the property line, so it complies with  
597 that. That is the only setback requirement.

598  
599 Chair Clough asked if there were any more questions for Mr. Clements. Hearing none, he asked  
600 to hear from the Applicant.

601

602 Eileen Casey introduced herself and Scott Adams. She continued that they live at and own 509  
603 Hurricane Rd., in the Rural District. They are seeking approval for a second street access up an  
604 approximately 18 degree slope to allow safer direct access to their full five-acre property. It is a  
605 Variance requested from Article 9.3.4.C.

606  
607 *1. Granting the Variance would not be contrary to the public interest.*  
608

609 Ms. Casey stated that granting the Variance would not be contrary to the public interest  
610 because the property is located in the low-density Rural District where an access on an  
611 18-degree slope into the lot would have minimal to no impact to the general public or the  
612 greater Keene area. The accessway is designed to minimize any issues with runoff or  
613 erosion into the roadway.  
614

615 *2. If the Variance were granted, the spirit of the Ordinance would be observed.*  
616

617 Ms. Casey stated that the accessway follows the natural slope of the land and will  
618 minimize cutting into the natural vegetation and ledge that occurs on the slope. She  
619 continued that the accessway will also be as short as possible to minimize disturbance to  
620 the natural vegetation. The access would be minimally or seasonally used for agricultural  
621 or gardening purposes, allowing delivery and movement of compost or mulch into the  
622 field. The accessway will occasionally be driven on by heavy vehicles such as the tractor  
623 or delivery trucks that would help maintain and compact the surface to prevent erosion.  
624 The accessway will be designed to allow proper drainage and prevent erosion running  
625 into the road, while aesthetically remaining in keeping with the rural area.  
626

627 *3. Granting the Variance would do substantial justice.*  
628

629 Ms. Casey stated that granting the Variance would do substantial justice because the  
630 accessway to the lot would allow safer access into the portion of the lot that is furthest  
631 from the current access/driveway, and this access would allow the property owners to  
632 fully utilize the property safely as they age in place.  
633

634 *4. If the Variance were granted, the values of the surrounding properties would not*  
635 *be diminished.*  
636

637 Ms. Casey stated that given the rural, low-density district and that other properties along  
638 Hurricane Rd. also have accessways that traverse slopes, they do not believe that granting  
639 this Variance would diminish surrounding properties' values in any way.  
640

641 *5. Unnecessary Hardship*

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

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

647 Ms. Casey stated that parcel 222-017-000-000 is located on a sloping hill. She continued that the  
648 current street access is located at the southern portion of the lot. Deliveries of bulk gardening  
649 products such as mulch, dirt, and compost currently must be dropped on the driveway. Getting  
650 these products to the northern portion of the lot requires a tractor to make a hazardous traverse  
651 across the front slope of the property to avoid plumbing and septic around the residence. Access  
652 to the northern portion is further impeded by an old stone wall that runs down the middle of the  
653 property. The most direct access to the northern portion of the lot is up a slope that is greater than  
654 15 degrees. Placing the accessway where proposed creates minimal disturbance to the hillside  
655 and maintains as much natural vegetation as possible, helping maintain the natural aesthetic of  
656 the area. The accessway design is gravel and includes a berm at the top to minimize runoff down  
657 the slope. In addition, a drainage way is alongside the slope to direct any runoff into the culvert  
658 at street level. If desired, further crowning or berms can be added along the approximate 100-  
659 foot length to further mitigate erosion or runoff into the road, should the City deem appropriate.

660

661 *and*

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

663

664 Ms. Casey stated that the second access is a small path that allows access into the field, over a  
665 drainage ditch on Hurricane Rd. She continued that it would allow the property owners a safe,  
666 direct way to fully access their property, with minimal impact to the abutting properties or the  
667 city of Keene.

668

669 *B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary*  
670 *hardship will be deemed to exist if, and only if, owing to special conditions of the property*  
671 *that distinguish it from other properties in the area, the property cannot be reasonably*  
672 *used in strict conformance with the ordinance, and a variance is therefore necessary to*  
673 *enable a reasonable use of it.*

674

675 Ms. Casey stated that creating an accessway that complies with the 15-degree Ordinance would  
676 require significantly more cutting into the slope and disturbance of the natural vegetation, which  
677 would likely cause more erosion issues. She continued that in addition, there is significant ledge  
678 along the slope that impedes creating a slope that complies with the Ordinance without  
679 significant excavation that would cause disturbance to the abutters and potentially impact the  
680 aesthetics of the area.

681

682 Ms. Casey stated that she thinks Mr. Clements has one picture, but she has two more, to give the  
683 board more of an idea of what the slope really looks like and what the difference is between 15  
684 degrees and 18 degrees. Mr. Schrantz asked, regarding the picture, if it is a picture of the access  
685 that Ms. Casey and Mr. Adams have already put in, which they are now coming to the ZBA to  
686 get approval for. Ms. Casey replied yes, they were not aware that it was too sloped.

687 Mr. Adams stated that last year, they put in a barn at the top of the hill. He continued that when  
688 they did that, people needed a way to get up to the barn to deliver the products, which was the  
689 start of the accessway.

690

691 Mr. Schrantz asked if the picture in the agenda packet is also of the road that has been put in  
692 place. Ms. Casey replied yes, just from a different angle.

693

694 Mr. Schrantz stated that his biggest question is about drainage. He asked who would oversee the  
695 drainage to make sure they do not create some dam or erosion that could happen in the future.

696 Mr. Clements replied that the contractor who turned rough, temporary access into more of  
697 permanent access did make improvements related to drainage, to ensure that it would not erode  
698 into the street. He continued that a berm at the top before the slope starts helps to keep flow from  
699 the property itself running down the driveway. Ultimately, the Applicant is responsible for  
700 maintaining the appropriate functionality, and if it is washing out into Hurricane Rd. or causing  
701 erosion concerns, it would have to be addressed. It seems to be adequate as it is currently  
702 installed, based on the City Engineer's comments.

703

704 Chair Clough stated that on Sunday, he drove by the property while the Applicant was on the  
705 tractor in the field. He continued that also as part of his job, he does stream assessments, stream  
706 crossings, for the Planning Commission. The culvert the Applicant put in and all the variety of  
707 stone is very good. It will carry the water correctly along the road. He noticed some erosion in  
708 the driveway. That might need to be crested a little more and maybe ditched slightly. He saw the  
709 berm. He could tell that there are many things in place that mitigate much of the potential for  
710 water to come down, but they could do a little more to direct it to where they have that great  
711 culvert. That was the only thing he noticed about that. The culvert is nice; clearly someone had  
712 put some work in on that.

713

714 Chair Clough asked if there were any more questions. Hearing none, he asked if anyone from the  
715 public wanted to speak in opposition or in favor of the application. Hearing none, he closed the  
716 public hearing and asked the board to deliberate.

717

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

719

720 Chair Clough asked if the board members agree with this. [Minute taker note: non-verbal  
721 responses].

722

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

724

725 Chair Clough stated that he sees nodding heads.

726

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

728

729 Chair Clough asked if there were any comments. He continued that he thinks everyone agrees it  
730 would do substantial justice.

731  
732 *4. If the Variance were granted, the values of the surrounding properties would not*  
733 *be diminished.*

734  
735 Chair Clough stated that he believes that is an accurate statement. He asked if anyone disagrees.  
736 He continued that he sees everyone agrees.

737  
738 *5. Unnecessary Hardship*  
739 *A. Owing to special conditions of the property that distinguish it from other*  
740 *properties in the area, denial of the variance would result in unnecessary*  
741 *hardship because*

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

745  
746 Chair Clough stated that if they asked the Applicant to try and cut three more degrees off it, that  
747 is a lot of work for an access road. He continued that if there is ledge there, anyone who has ever  
748 dealt with ledge knows that it is difficult. He thinks this criterion is met.

749  
750 Mr. Guyot stated that he would add that the lot is unique relative to its slope. He continued that it  
751 is not totally unusual along Hurricane Rd., but he has been by the property, and it is a very nice  
752 culvert. They have what they have; it is a natural environment. The slope is there, which does  
753 make that part unique. The board always struggles with the fifth criterion about hardship  
754 conditions, but this does qualify here.

755  
756 *and*  
757 *ii. The proposed use is a reasonable one.*

758  
759 Chair Clough stated that they do not have to go through 5.B., because A. is sufficient. He asked  
760 for a motion.

761  
762 Mr. Burke made a motion to approve ZBA-2025-19 for a Variance to allow a street  
763 access/driveway with a slope of 19% for property located at 509 Hurricane Rd., Tax Map #222-  
764 017-000-000, as shown in the application and supporting materials received on October 17,  
765 2025, with the following conditions: 1) Street access/driveway shall not be used to connect any  
766 building or structure to the public right-of-way, and 2) if the property is ever subdivided, this  
767 street access/driveway shall not be used to connect any building or structure to the public right-  
768 of-way unless it is redesigned and reconstructed to conform to all street access/driveway  
769 regulations. Mr. LeRoy seconded the motion.

770  
771 *1. Granting the Variance would not be contrary to the public interest.*

772

773 Met with a vote of 5-0.

774

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

776

777 Met with a vote of 5-0.

778

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

780

781 Met with a vote of 5-0.

782

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

785

786 Met with a vote of 5-0.

787         5.       *Unnecessary Hardship*

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

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

794

795 Met with a vote of 5-0.

796

797 *and*

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

799

800 Met with a vote of 5-0.

801

802 The motion to approve ZBA-2025-19 with the conditions passed with a vote of 5-0.

803

804       V)    **New Business**

805

806       VI) **Staff Updates**

807

808           A)    **Rules of Procedure Updates**

809

810 Mr. Clements stated that staff is officially introducing the proposed changes to the Rules of  
811 Procedure tonight, and the board will vote on them at the December meeting. He continued that  
812 the changes are included in the packet. One or two minor grammatical changes not worth  
813 discussing have taken place. Applicable changes have been highlighted. Something that came up  
814 more at the Planning Board than the ZBA is a clarification under the “Quorum” section that an

815 alternate member who has been seated in the place of a regular member will remain a voting  
816 member for the duration of the application. Thus, if an alternate member is seated due to a  
817 regular member's absence, and an application gets continued to another meeting, if the regular  
818 member who was absent is present at that next meeting, they will not be voting. They can still  
819 deliberate and participate, but the alternate member who was seated in their stead will remain the  
820 voting member for the duration of that application. A minor, clerical change to "Order of  
821 Business" is to strike the word "*chair*" from "*roll call by the chair.*" Roll call will still be done,  
822 but it simplifies it to not require it to be done by the chair.

823  
824 Mr. Clements continued that under "Applications," they have since added a floodplain variance  
825 process as required by FEMA, so they added a new variance application specific to relief from  
826 the floodplain regulations, along with a clarification that a motion to rehear is also relevant to  
827 that. There is further clarification to the term "abutter;" he thinks they just added the quotation  
828 marks. On page 82 of the PDF, which is page 7 of the regulations, they changed "Deadline for  
829 Filing" from 17 days to 24 days, which puts it one week earlier, which will mean that the  
830 deadline to file an application will be the Friday of the week where they hold meetings. They  
831 will hold their meeting on Monday and then the deadline for new applications will be that  
832 Friday. That will go into effect next year. In December, the ZBA will adopt the meeting schedule  
833 for 2026, so those changes will take effect then. That will give staff a little more time to work  
834 with an applicant to prepare an application, because right now, the deadline is Friday and the  
835 packet has to go out the next Friday, so that barely gives any time for tweaks and adjustments,  
836 nor staff review.

837  
838 Mr. Clements continued that regarding the "Fees" section, there are changes citywide for all land  
839 use boards, regarding noticing abutters. They no longer do Certified Mail, and instead use a  
840 product called Certificate of Mail. The statute requires that abutters be noticed by verified mail,  
841 and in very specific circumstances, the statute also requires certified mailings for things, in  
842 which case, staff will do certified mailings when required. Certificate of Mailing is about \$2.40  
843 per letter, as opposed to almost \$6 per letter for Certified Mail. In addition, residents complained  
844 that they missed the Postman's attempt to deliver the Certified Mail and received the green slip  
845 asking them to pick it up at the Post Office, but life happens, and if it takes over a week to get to  
846 the Post Office, they find out that the ZBA meeting they were noticed about already happened.  
847 The Certificate of Mailing, by contrast, will go right in a person's mailbox. There is no need to  
848 chase the Postman.

849  
850 Mr. Clements continued that regarding "Supplemental Information," if an applicant or an  
851 applicant's representative submits substantive additional information within 10 days prior to the  
852 public hearing, it used to be that the board was required, by their own regulations, to stop  
853 everything to look at the new submittal and decide by a vote whether to accept it or to continue  
854 the application, if the board felt that they needed more time to digest that new information. Staff  
855 proposes changing the word "*shall*" to "*may.*" Thus, if the board is in this situation, it still gives  
856 them a process to do this if they feel the need, but they are not shackled and required to do it. If  
857 new information is provided the night of the meeting, such as photos, one could use this rule to

858 argue that the board needs to stop its proceedings and vote to accept the photos, or to continue  
859 the application so they would have another month to look at the photos.

860

861 Mr. Schrantz stated that he thinks this change is great, because he would prefer not to be  
862 shackled. Mr. Clements replied yes, it gives them the flexibility to make the decision.

863

864 Mr. Clements stated that under “Conduct,” staff deleted the chair’s responsibility to report on  
865 how the personal notice was given, as that was rather ridiculous. Regarding the clause “*the*  
866 *Board will accept any evidence that pertains to the facts of the case or how the facts relate to the*  
867 *provisions of the zoning ordinance...*,” staff changed the word “will” to “may.” The last change,  
868 related to joint board meetings, is to change “*the other Board shall concur in these conditions*”  
869 to “*the other Board shall concur with these conditions.*”

870

871 Chair Clough stated that the board will vote on those changes at the December meeting.

872

873 **VII) Communications and Miscellaneous**

874

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

876

877 **VIII) Non-Public Session (if required)**

878

879 **IX) Adjournment**

880

881 There being no further business, Chair Clough adjourned the meeting at 7:57 PM.

882

883 Respectfully submitted by,  
884 Britta Reida, Minute Taker

885

886 Reviewed and edited by,  
887 Corinne Marcou, Board Clerk

Page intentionally left blank

56 BIRCH ST.  
ZBA-2026-01



Petitioner requests a garage addition that will encroach ~2.5ft into the 10ft side setback per Article 3.3.2 of the Zoning Regulations.



## **Notice of Public Hearing**

A meeting of the Keene Zoning Board of Adjustment will be held on **Monday, January 5, 2026, at 6:30 PM** in the 2<sup>nd</sup> Floor Council Chambers of City Hall, 3 Washington St, Keene, NH 03431 to conduct a hearing on the following petition.

**ZBA-2026-01:** Petitioner, Samuel & Cassie Brown, of 56 Birch St., requests a Variance, for property located at 56 Birch St., Tax Map # 538-047-000-000 and is in the Low-Density District. The Petitioner is requesting a Variance to permit a garage addition that will encroach approximately 2.5 ft into the 10 ft side setback, per Article 3.3.2 of the Zoning Regulations.

### **Why am I receiving this notice?**

You are receiving notice of this hearing as an abutter to, or owner of, property within 200-ft of the subject parcel. Please be advised that this may be the only notice you will receive, and the nature of the proposal may change in scope.

### **Where can I find the application materials?**

Materials for this application are available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm. The agenda packet is typically posted on the Zoning Board of Adjustment webpage ([keenenh.gov/zoning-board-adjustment](http://keenenh.gov/zoning-board-adjustment)) one week before the meeting.

### **How can I provide my feedback?**

Written comments in the form of a letter can be mailed to or dropped off in the City of Keene Community Development Department on the 4<sup>th</sup> Floor of City Hall. Letters can also be emailed to [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov) or dropped off in person and will be accepted up until 3:00 pm on the day of the meeting.

### **Can I attend the meeting?**

Yes, you have the right to attend the meeting and provide your feedback on the proposal. If you are unable to attend in person, you can view a livestream of the Zoning Board of Adjustment meeting on the City of Keene website and YouTube channel, barring any technical difficulties.

### **How can I follow along with this project?**

You are encouraged to review any future agendas for updates on the status of this and other applications on the Board webpage. All decisions made by the Zoning Board of Adjustment are posted under the "Actions" section of their webpage the next business day. If you have any questions, please contact the Community Development Department at (603) 352-5440.

# STAFF REPORT

## ZBA-2026-01 – SETBACK VARIANCE – GARAGE ADDITION, 56 BIRCH ST.

### **Request:**

Petitioner, Samuel & Cassie Brown, of 56 Birch St., requests a Variance, for property located at 56 Birch St., Tax Map # 538-047-000-000 and is in the Low Density District. The Petitioner is requesting a Variance to permit a garage addition that will encroach approximately 2.5 ft into the 10 ft side setback, per Article 3.3.2 of the Zoning Regulations.

### **Background:**

The subject parcel is an existing .026 ac residential lot located on the southern side of Birch St. between the intersections with Balsam St. to the east, and Needle St. to the west. The property contains an existing single-family residence with attached garage and driveway. The property is part of the Pine Banks Extension subdivision from 1946, which is characterized as a traditional midcentury suburban neighborhood.

The purpose of this application is to seek a Variance from the 10 ft side yard setback requirement in the Low-Density Zoning District to accommodate the addition of a second garage bay with additional living space above the western side of the residence. Construction of the addition will require encroachment of approximately 2.5 ft into the side yard setback.

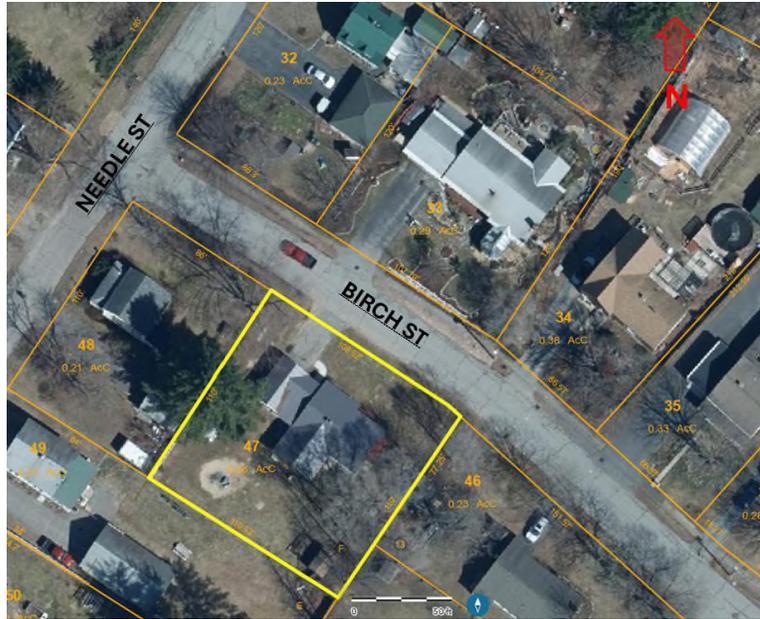


Fig 1: Aerial of 56 Birch St. outlined in yellow

At the time of this staff report, the submitted materials do not clearly indicate how the requested relief was calculated. The submitted floor plan does not indicate the measurement from the edge of the proposed addition to the property line. If the measurement was derived from the edge of the roof overhang to the property line, then the requested relief is correct. If the measurement is from the wall of the proposed garage and the roof overhangs beyond the wall, then the requested relief is insufficient. This information has been requested from the applicant.

# STAFF REPORT

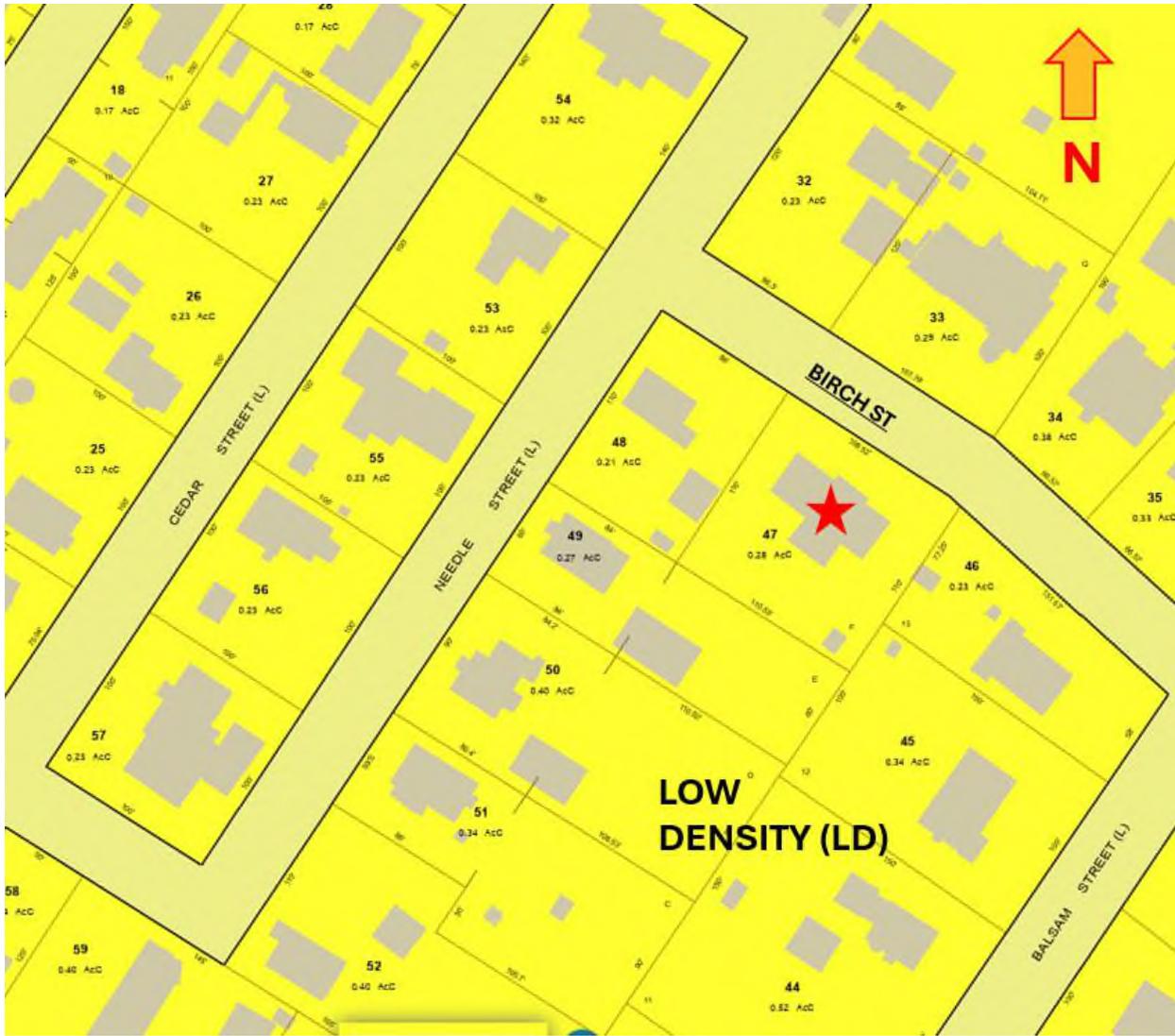


Fig 2: Aerial of 56 Birch St. at the red star with surrounding zoning districts

## Surrounding Uses:

**North:** Single-family residential

**South:** Single-family residential

**East:** Single-family residential

**West:** Single-family residential

# STAFF REPORT

**Application Analysis:** The following is a review of the relevant sections of the Zoning Ordinance:

### **1.3.3 Setbacks & Build-To Dimensions:**

**Building Setback.** The required minimum distance all buildings or structures must be located from a lot line, which is unoccupied and unobstructed by any portion of a building or structure, unless expressly permitted by this LDC.

**Side Setback.** The required minimum distance that all buildings or structures must be located from the side lot line, unless expressly permitted by this LDC. A side setback may be measured perpendicular to the interior side setback or to the corner side lot line.

**Low Density District:** The Low Density (LD) District is intended to provide for low-intensity single-family residential development. All uses in this district shall have city water and sewer service.

### **3.3.2 Dimensions & Siting:**

Min Lot Area	10,000 sf
Min Lot Width at Building Line	70 ft
Min Road Frontage	60 ft
Min Front Setback	15 ft
Min Rear Setback	20 ft
Min Side Setback	10 ft

### **Suggested Conditions and Draft Motion:**

If the Board is inclined to approve this request, the following language is recommended for the motion:

***“Approve ZBA-2026-01, for the Variance to allow an approximately 2.5 ft encroachment into the 10 ft side yard setback to accommodate an addition for property located at 56 Birch St., Tax Map # 538-047-000-000 as shown in the application and supporting materials, received on December 1, 2025 with the following conditions:***

- 1. Foundation corners shall be pinned by a licensed surveyor and verified by a City Building Inspector prior to construction.”**

City of Keene, NH

# Zoning Board of Adjustment Variance Application



For Office Use Only:  
Case No ZBA-2026-01  
Date Filled 12/1/2025  
Rec'd By CJM  
Page 1 of 13  
Rev'd by

If you have questions on how to complete this form please call (603) 752-5410 or email [communitydevelopment@keene-nh.gov](mailto:communitydevelopment@keene-nh.gov)

## SECTION 1 CONTACT INFORMATION

### OWNER / APPLICANT

NAME/COMPANY: Samuel & Cassie Brown  
MAILING ADDRESS: 56 Birch Street Keene NH 03431  
PHONE: 603-852-4152  
EMAIL: cassiebrown603@gmail.com

SIGNATURE: *Samuel W. Brown* *Cassie M. Brown*  
PRINTED NAME: Samuel Brown, Cassie Brown

### APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:  
MAILING ADDRESS:  
PHONE:  
EMAIL:  
SIGNATURE:  
PRINTED NAME:

### AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:  
MAILING ADDRESS:  
PHONE:  
EMAIL:  
SIGNATURE:  
PRINTED NAME:

SECTION 2: PROPERTY INFORMATION

Property Address: 56 Birch Street Keene NH 03431

Tax Map Parcel Number: 538/ / 047/000 000/000

Zoning District Low Density

Lot Dimensions: Front: 108.52 Rear: 110.53 Side: 110 Side: 110

Lot Area: Acres: 0.28 Square Feet: 1142

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 15% Proposed: 17.3%

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 21.2% Proposed: 23.2%

Present Use: Residential

Proposed Use: Residential

SECTION 3: WRITTEN NARRATIVE

Article 25.5.4.A: Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

Owners: Samuel & Cassie Brown

Description of property:

Property is a ranch style single family residential dwelling in the tree street district of west Keene.

Purposed work requiring variance.

Eliminate one bay garage and replace with double bay with additional living space located above to include master bedroom, bathroom and small office space.

Justification:

Unique property conditions. The property at 56 Birch Street has existing limitations with the current lot size, garage placement and setbacks that make it difficult to reasonable use without the variance.

Safety and functionality. The single bay garage that was included during the construction of the home in the 1950's does not accommodate modern vehicles or multiple drivers in the household. A double bay improves safe off-street parking and storage, which aligns with community safety goals.

Reasonable use: This change is consistent with typical residential needs as evidenced by a similar property on the same street (17 Birch Street, Keene NH) created a similar modification, as well as other abutting streets. Due to neighborhood similarities the variance request is not excessive or out of character.

Impact (Impacts on the neighborhood & Zoning Intent)

Character of neighborhood. Several homes are noted in the neighborhood that have similar or larger garages, so the request to the zoning board is in harmony with the neighborhood.

No negative impact: The change will not block sightlines, reduce open space or cause drainage, traffic or noise issues.

Improvement: The new garage addition will enhance the property value and appearance which will positively affect the neighborhood.

Zoning intent preservation. The purposed project fits within the residential use of the property.

SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article 3.3.2 of the zoning regulations to permit a garage addition the will encroach 2.5ft out of the 10ft side setback.

A Variance is requested from Article 3.3.2 of the zoning regulations to permit a garage addition the will encroach 2.5ft out of the 10ft side setback.

Briefly describe your responses to each criteria using additional sheets if necessary.

1. Granting the variance would not be contrary to the public interest because

Granting the variance would not be contrary to the public interest because the proposed addition with two-bay garage will remain consistent with the residential use and character of the neighborhood. The new garage will reduce reliance on street parking, improving both safety and aesthetics. It will not interfere with neighboring properties' access to light, air, or views and will not create drainage or traffic concerns. Other properties in the area already have similar garages so this improvement will be in harmony with the community and zoning intent.

**2. If the variance were granted, the spirit of the ordinance would be observed because:**

The spirit of the ordinance is to ensure orderly development, protect neighboring properties, and preserve the residential character of the neighborhood. The proposed serves a typical residential use, fits within the scale of the property and aligns with the character of surrounding homes. Granting the variance allows the ordinance's intent to be honored while reasonably accommodating the lot's conditions.

**3. Granting the variance would do substantial justice because:**

Substantial justice is done by granting the variance because the benefit to the homeowner—safe, functional parking and reasonable use of the property—outweighs any minimal impact to the public, which is essentially none. Granting the variance allows our family of 6 to use the property safely and fully, while denial would create an unnecessary hardship by restricting us to an undersized and outdated garage. The benefit to our family far outweighs any minimal or nonexistent impact on the public. In conclusion, denying the variance would create an unnecessary hardship without providing any corresponding public benefit.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

The proposed improvements will not diminish surrounding property values. In fact, a new well designed garage with addition will enhance the appearance and functionality of the property and secondary improve neighborhood values overall.

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:

The property has unique conditions that create a hardship. The existing single-bay garage does not reasonably meet the needs of a modern household, forcing reliance on on-street parking. Due to the lot layout and existing structure placement, strict enforcement of the ordinance would prevent a reasonable and customary improvement. Expanding to a two-bay garage is a modest, practical solution consistent with typical residential use and with other homes in the area.

and

ii. The proposed use is a reasonable one because:

The proposed use is reasonable because a two-bay garage is a typical and appropriate accessory structure for a single-family residence. It provides safe off-street parking and storage consistent with the residential nature of the property and neighborhood. The use does not alter the character of the community, will not increase traffic or noise and is in line with what is commonly found on similar lots.

B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Denial of the proposed variance would harm the owners without benefiting the public.

Granting the variance allows our family to use the property safely and fully while denial would create an unnecessary hardship by restricting us to an undersized and outdated home. The benefit to our family far outweighs any nonexistent impact to the public.



REVISION TABLE			
NUMBER	DATE	PREPARED BY	DESCRIPTION

**Cassie's Addition**  
56 Birch St.

**Cassie Brown**  
56 Birch St.  
Keene NH

DRAWINGS PROVIDED BY:  
Joe Pyhala  
603-762-4828

DATE:

8/12/2025

SCALE:

SHEET:

1



Second Floor Overview



View of Living Room



View of stair

REVISIONS	DATE	BY	DESCRIPTION

**Cassie's Addition**  
56 Birch St.

**Cassie Brown**  
56 Birch St.  
Keene NH

DRAWINGS PROVIDED BY:  
**Joe Pyjahn**  
603-762-4828

DATE:

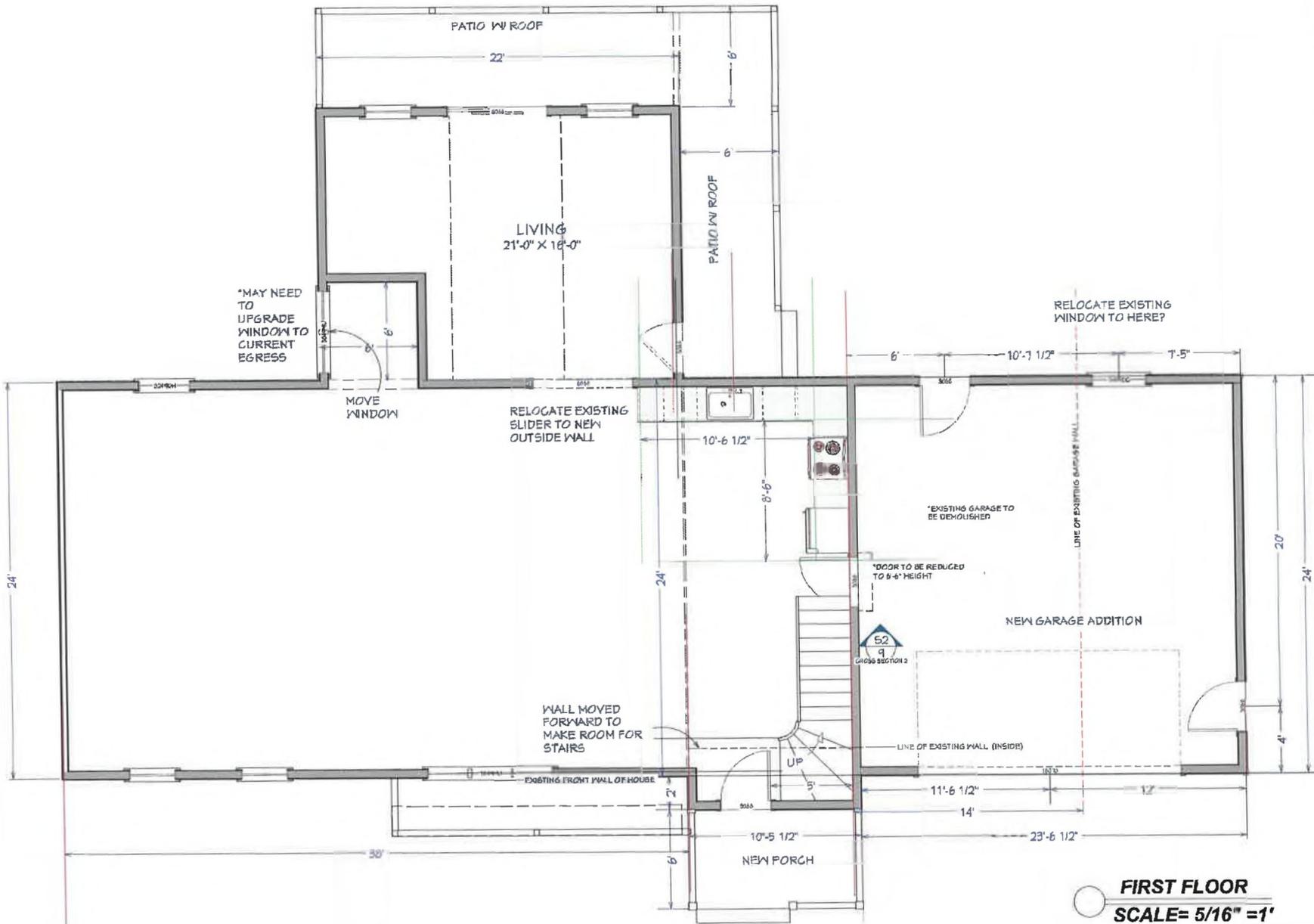
8/12/2025

SCALE:

SHEET:

2





**FIRST FLOOR**  
**SCALE= 5/16" = 1'**

REVISION TABLE	NUMBER	DATE	REVISED BY	DESCRIPTION

**Cassie's Addition**  
 56 Birch St.  
 Keene, NH

**Cassie Brown**  
 56 Birch St.  
 Keene, NH

DRAWINGS PROVIDED BY:  
 Joe Pynhala  
 603-762-4928

DATE:  
 8/12/2025

SCALE:

SHEET:





Elevation 1



Elevation 3

**CROSS SECTIONS  
NOT TO SCALE**



Elevation 2



Elevation 4

REVISION DATE	REVISION DESCRIPTION

**Cassie's Addition**  
56 Birch St.

**Cassie Brown**  
56 Birch St.  
Keene NH

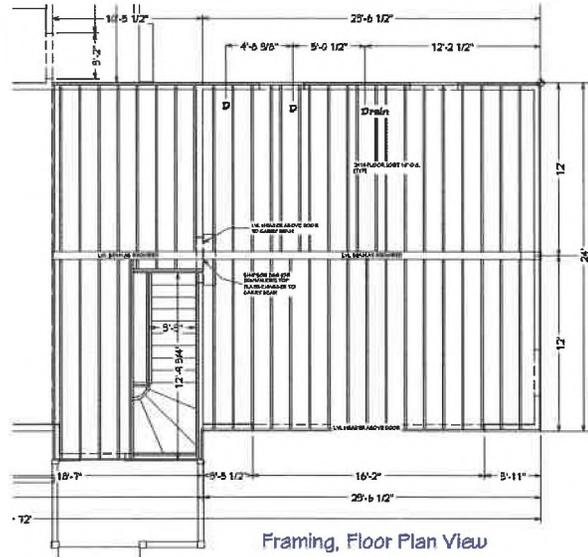
DRAWINGS PROVIDED BY:  
Joe Pyhela  
603-762-4828

DATE:  
8/12/2025

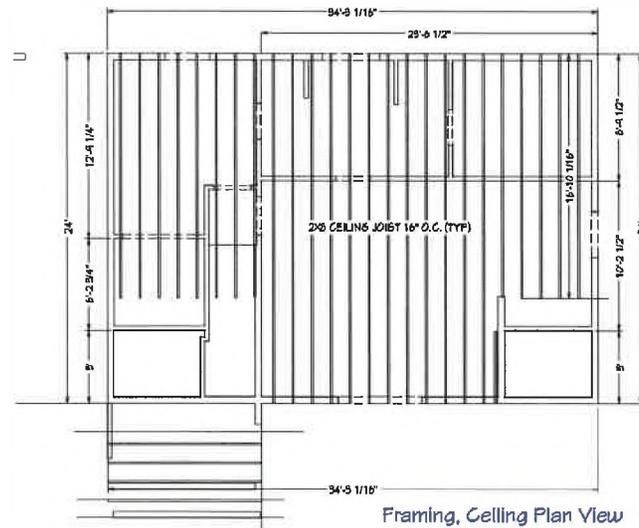
SCALE:

SHEET:

5

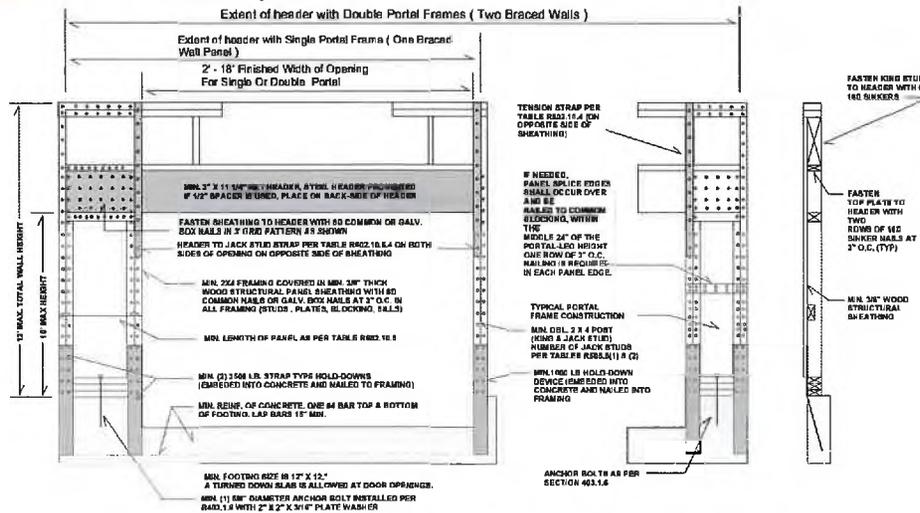


Framing, Floor Plan View

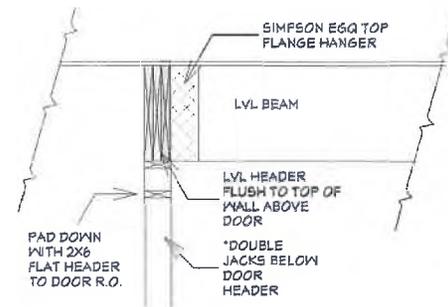


Framing, Ceiling Plan View

**R602.10.6.2 METHOD PFH: Portal Frame With Hold-Downs.** Method PFH braced wall panels shall be constructed in accordance with Figure R602.10.6.2.



**PORTAL FRAME DETAIL**  
**NOT TO SCALE**



Cross Section 2

REVISION TABLE	NUMBER	DATE	REASON	BY	DESCRIPTION

**Cassie's Additie.**  
56 Birch St.

**Cassie Brown**  
56 Birch St.  
Keene NH

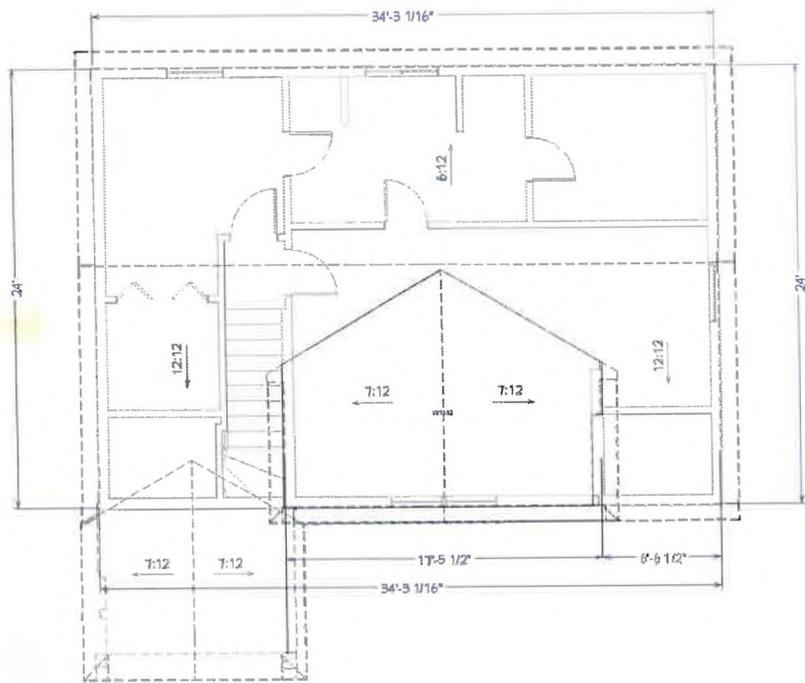
DRAWINGS PROVIDED BY:  
**Joe Fyhala**  
603-762-4828

DATE:  
8/12/2025

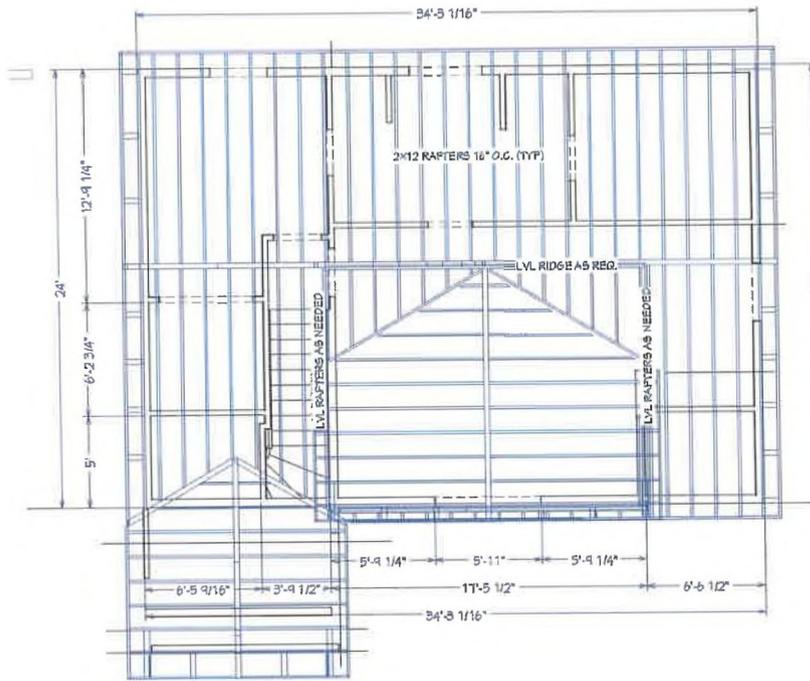
SCALE:

SHEET:

6



○ **ROOF PLANES  
NOT TO SCALE**



○ **ROOF RAFTERS  
NOT TO SCALE**

REVISION TABLE	NUMBER	DATE	DESCRIPTION

**Cassie's Addition**  
56 Birch St.

**Cassie Brown**  
56 Birch St.  
Keene NH

DRAWINGS PROVIDED BY:  
**Joe Fyhala**  
603-762-4828

DATE:  
8/12/2025

SCALE:

SHEET:  
**7**



City of Keene, NH

1 inch = 138 Feet



December 1, 2025

www.cai-tech.com



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



# 200 feet Abutters List Report

Keene, NH  
December 01, 2025

## Subject Property:

Parcel Number: 538-047-000  
CAMA Number: 538-047-000-000-000  
Property Address: 56 BIRCH ST.

Mailing Address: BROWN SAMUEL N BROWN CASSIE M  
56 BIRCH ST  
KEENE, NH 03431

## Abutters:

Parcel Number: 538-031-000  
CAMA Number: 538-031-000-000-000  
Property Address: 69 NEEDLE ST.

Mailing Address: BAYBUTT KATHLEEN M.  
69 NEEDLE ST.  
KEENE, NH 03431

Parcel Number: 538-032-000  
CAMA Number: 538-032-000-000-000  
Property Address: 63 NEEDLE ST.

Mailing Address: LACOUNT EDWARD G.  
63 NEEDLE ST.  
KEENE, NH 03431

Parcel Number: 538-033-000  
CAMA Number: 538-033-000-000-000  
Property Address: 57 BIRCH ST.

Mailing Address: HEISER BRUCE B HEISER MAUREEN E  
57 BIRCH ST  
KEENE, NH 03431

Parcel Number: 538-034-000  
CAMA Number: 538-034-000-000-000  
Property Address: 51 BIRCH ST.

Mailing Address: SALCE MICHAEL A. DIMODICA LINDA  
51 BIRCH ST.  
KEENE, NH 03431

Parcel Number: 538-035-000  
CAMA Number: 538-035-000-000-000  
Property Address: 49 BIRCH ST.

Mailing Address: WRIGHT GLENN H. WRIGHT AMY M.  
49 BIRCH ST.  
KEENE, NH 03431

Parcel Number: 538-036-000  
CAMA Number: 538-036-000-000-000  
Property Address: 47 BIRCH ST.

Mailing Address: BEHM MICHAEL WEBER CINDY  
47 BIRCH ST  
KEENE, NH 03431

Parcel Number: 538-037-000  
CAMA Number: 538-037-000-000-000  
Property Address: 45 BIRCH ST.

Mailing Address: FIELDS HELEN F GREENE STEPHEN E  
45 BIRCH ST  
KEENE, NH 03431

Parcel Number: 538-042-000  
CAMA Number: 538-042-000-000-000  
Property Address: 44 BIRCH ST.

Mailing Address: DONOVAN, WILLIAM H. JR. SYSYN  
WILLIAM J.  
44 BIRCH ST.  
KEENE, NH 03431

Parcel Number: 538-043-000  
CAMA Number: 538-043-000-000-000  
Property Address: 17 BALSAM ST.

Mailing Address: ROBINSON KAREN & DEAN REV. TRUST  
  
17 BALSAM ST.  
KEENE, NH 03431

Parcel Number: 538-044-000  
CAMA Number: 538-044-000-000-000  
Property Address: 14 BALSAM ST.

Mailing Address: COSTA KATHERINE E RUELLE  
14 BALSAM ST  
KEENE, NH 03431



www.cai-tech.com

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.



# 200 feet Abutters List Report

Keene, NH  
December 01, 2025

Parcel Number: 538-045-000  
CAMA Number: 538-045-000-000-000  
Property Address: 18 BALSAM ST.

Mailing Address: FOOTE JOSHUA T. FOOTE ERIN S.  
18 BALSAM ST.  
KEENE, NH 03431

Parcel Number: 538-046-000  
CAMA Number: 538-046-000-000-000  
Property Address: 50 BIRCH ST.

Mailing Address: CALMER MERRITT REV TRUST  
C T CALMER & P L MERRITT TTEES 153  
KINGS HWY  
HANCOCK, NH 03449

Parcel Number: 538-048-000  
CAMA Number: 538-048-000-000-000  
Property Address: 45 NEEDLE ST.

Mailing Address: LUCAS FOLLY LLC  
89 PARK AVE  
KEENE, NH 03431

Parcel Number: 538-049-000  
CAMA Number: 538-049-000-000-000  
Property Address: 39 NEEDLE ST.

Mailing Address: PROVENCHER TIMOTHY A.  
39 NEEDLE ST.  
KEENE, NH 03431

Parcel Number: 538-050-000  
CAMA Number: 538-050-000-000-000  
Property Address: 27 NEEDLE ST.

Mailing Address: HOLLAND REBECCA B. FORBES MARY  
JOANNA  
27 NEEDLE ST.  
KEENE, NH 03431

Parcel Number: 538-051-000  
CAMA Number: 538-051-000-000-000  
Property Address: 21 NEEDLE ST.

Mailing Address: FLETCHER RYDER E. FLETCHER  
SUSAN A.  
21 NEEDLE ST.  
KEENE, NH 03431

Parcel Number: 538-053-000  
CAMA Number: 538-053-000-000-000  
Property Address: 40 NEEDLE ST.

Mailing Address: BECKWITH RAELENE BECKWITH  
SCOTT  
40 NEEDLE ST.  
KEENE, NH 03431

Parcel Number: 538-054-000  
CAMA Number: 538-054-000-000-000  
Property Address: 69 CEDAR ST.

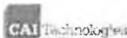
Mailing Address: BREWER FAMILY REV. TRUST  
69 CEDAR ST.  
KEENE, NH 03431

Parcel Number: 538-055-000  
CAMA Number: 538-055-000-000-000  
Property Address: 43 CEDAR ST.

Mailing Address: MCCARTHY, JESSICA MCCARTHY  
MICHAEL G.  
43 CEDAR ST.  
KEENE, NH 03431-1504

Parcel Number: 538-056-000  
CAMA Number: 538-056-000-000-000  
Property Address: 35 CEDAR ST.

Mailing Address: KNOWLES, ARTHUR M.  
35 CEDAR ST.  
KEENE, NH 03431



www.cai-tech.com

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

Page intentionally left blank

**CITY OF KEENE**  
**ZONING BOARD OF ADJUSTMENT**  
**RULES OF PROCEDURE**

**I. GENERAL RULES**

- A. **Authority:** These rules of procedure are adopted under the Authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676:1, and the zoning ordinance and map of the City of Keene. The Zoning Board of Adjustment (ZBA) shall have and shall exercise all the powers enumerated in RSA 674:33, or as otherwise provided by State statute and City Ordinances.
- B. **Purpose:** The purpose of these rules is to provide guidance to the City of Keene Zoning Board of Adjustment (“Board”) and all persons participating in proceedings held before the Board, and to allow for the orderly and efficient handling of all matters within the jurisdiction of the Board. Proceedings are not to be strictly governed by formal rules of evidence or parliamentary procedure. Instead, these rules are designed so that all parties interested in an application will be allowed a reasonable opportunity to fully participate and share their views, facts, evidence, and opinions for the Board’s consideration in reaching an appropriate decision. The Board is authorized, by a vote of two-thirds (2/3) of the five (5) member Board, to vote at any meeting to suspend, supplement, alter, or amend any specific rule or procedure, as may be appropriate in a particular matter, in order to best accomplish this purpose.
- C. **Officers:** All officers of the Board, including up to five (5) alternate members, shall be appointed by the Mayor of the City of Keene pursuant to RSA 673:6, and applicable City Ordinance.
- a. A *Chair* shall be elected annually by a majority vote of the Board in the month of January. The *Chair* shall preside over all meetings and hearings, appoint such committees as directed by the Board, and shall affix their signature in the name of the Board.
  - b. A *Vice-Chair* shall be elected annually by a majority vote of the Board in the month of January. The *Vice-Chair* shall preside in the absence of the Chair and shall have the full powers of the Chair on matters which come before the Board during the absence of the Chair.
  - c. A *Clerk* (who shall not be a Board member) shall be appointed by the City of Keene Zoning Administrator, to maintain a record of all meetings, transactions, and decisions of the Board, and perform such other duties as the Board may direct by resolution and otherwise assist the Board.

- d. The *Chair* and *Vice-Chair* shall serve for a one (1) year term and shall be eligible for re-election and shall continue to serve until annual elections are next held.
- D. **Members and Alternates:** Up to five (5) alternate members may be appointed by the Mayor of the City of Keene, pursuant to RSA 637:6, and applicable City Ordinance to serve whenever a regular member of the Board is unable to fulfill that member's responsibilities.
- a. At meetings of the ZBA, alternates who are not activated to fill the seat of an absent or recused member, or who have not been appointed by the Chair to temporarily fill the unexpired term of a vacancy, may participate with the Board in a limited capacity. During a public hearing, alternates may sit at the table with the regular members and may view documents, listen to testimony, ask questions and interact with other Board members, the applicant, abutters, and the public. Alternates shall not be allowed to make or second motions. During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made. At all times, the Chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.
  - b. Members must reside in the community and are expected to attend each meeting of the Board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the Clerk as soon as possible. Members, including the Chair and all officers, shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.
- E. **Meetings:** Regular meetings shall be held in the Council Chambers, at 3 Washington Street, Keene, New Hampshire, on the first Monday of each month unless otherwise duly noticed by the Clerk. Other meetings may be held on the call of the Chair provided public notice and notice to each member is given in accordance with RSA 91-A:2, II.
- a. **Quorum:** A quorum for all meetings of the Board shall be three (3) members, including alternates sitting in place of members.
    - i. The Clerk shall make every effort to ensure that all five (5) members, and one (1) or two (2) alternates, are present for consideration of any appeal or application.
    - ii. If any regular Board member is absent from any meeting or hearing or disqualifies themselves from sitting on a particular case, the Chair shall designate one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall be in all

respects a full member of the Board while so sitting for the duration of the application.

iii. If there are less than five (5) members (including alternates) available, the Clerk shall give the option to the applicant to proceed or not prior to the scheduled meetings. Should the applicant choose to proceed with less than five (5) members present that shall not solely constitute grounds for a re-hearing should the application be denied. All decisions of the Board shall require the concurrence of at least three (3) members. The option to request to reschedule a meeting of less than five (5) members is not absolute, and the Board may, at its discretion, proceed to consider an application with less than a five (5) member Board.

b. **Public Hearing Limits:** The Board shall not open a new or continued public hearing after 10:00 p.m.

c. **Disqualification:** If any member finds it necessary to disqualify (or recuse) themselves from sitting in a particular case, as provided in RSA 673:14, they shall notify the Clerk as soon as possible so that an alternate may be requested to sit in their place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the Board may request the Board to vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding.

i. Either the Chair or the member disqualifying before the beginning of the public hearing on the case shall announce the disqualification. The disqualified member shall step down from the Board table during the public hearing and during deliberation on the case.

ii. Any interested person appearing in a proceeding, having any information or reason to believe that a Board member should be disqualified, shall notify the Chair as soon as possible and in any event before the commencement of such public hearing.

iii. Any Board member or other interested party may, in accordance with RSA 673:14, prior to the commencement of any public hearing, request the Board to make the determination as to whether or not such Board member should be disqualified.

iv. In deciding issues of disqualification, the Board shall be guided by RSA 500-A:12, pertaining to jury selection and the requirement that jurors shall be “indifferent,” as well as the City of Keene Code of Ordinances §2-1111, *et seq.* (“Conflict of Interest”).

- d. **Voting:** Unless otherwise required by law (i.e. RSA 674:33, III) all actions before the Board (including appropriate findings of fact) shall require only a majority vote of those members acting on any matter. All members hearing the matter shall vote; abstention shall not be allowed.
  
- e. **Order of Business:** The order of business for a regular meeting shall be as follows:
  - i. Call to order by the Chair
  - ii. Roll call
  - iii. Minutes of previous meeting
  - iv. Unfinished business
  - v. Public hearing
  - vi. New business
  - vii. Communications and miscellaneous
  - viii. Other business
  - ix. Non-public session (if required)
  - x. Adjournment

(Note: although this is the usual order of business, the Board may change the order of business after the roll call in order to accommodate efficiency or the public.)

- f. **Nonpublic Sessions:** All deliberations of the Board shall be held in public. Nonpublic sessions shall be held only as necessary and in strict compliance with the provisions of RSA 91-A. The Board may also adjourn, as needed, to meet with its attorney to receive legal advice, which will not constitute a nonpublic session pursuant to RSA 91-A.

## **II. PROCEDURES FOR FILING APPLICATIONS**

### **A. Application/Decision**

- a. **Applications:** The original application forms may be obtained from either the Clerk or the Community Development Department. Each application for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Clerk who shall record the date of receipt. The forms provided by the City must be used; correctness of the information supplied shall be the responsibility of the petitioner at all times. Applications should be identified as one of the following: Appeal of an Administrative Decision, Enlargement or Expansion of a Non-Conforming Use, Equitable Waiver of Dimensional Requirements, Special Exception, Extension, Variances, including Floodplain, and Motion to Rehear. All forms and fees prescribed herein, and revisions thereof shall be adopted by the Board and shall become part of these Rules of Procedure.
  - i. Applications to Appeal from an Administrative Decision taken under RSA 676:5 shall be filed within thirty (30) days of the

decision or when such decision becomes known or reasonably should have been known, by the petitioner as determined by the Board.

- b. A public hearing shall be held within ninety (90) days of receipt of an application, provided that the applicant may waive this requirement and consent to such extension as may be mutually agreeable. If a zoning board of adjustment determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the board may, in its discretion, deny the application without prejudice, in which case the applicant may submit a new application for the same or substantially similar request for relief. Public notice of public hearings on each application shall be published in the local newspaper and shall be posted at two locations, of which one posting may be on the City internet website, not less than five (5) days before the date fixed for the hearing. Notice shall include the name of the applicant, description of property to include tax map identification, action desired by the applicant, all applicable provisions of the zoning ordinance, the type of appeal being made, and the date, time, and place of the hearing.
  - i. Personal notice shall be made in accordance with the requirements of RSA 676:7 to the applicant and to all abutters and holders of conservation, preservation, or agricultural preservation restrictions not less than five (5) days before the date of the hearing.
- c. **Plot Plans:** A scale drawing that shows the location and dimensions of all structures and open spaces on the subject lot and on the adjacent lots. Plans need not be professionally drawn but must be a sufficient and accurate representation of the property. Plans deemed to be insufficient by the Clerk shall be returned, and no public hearing shall be scheduled until the receipt of an acceptable plan. The plot plan is to be a minimum of 8 ½ x 11 inches.
- d. **Abutter Notification Materials:** For the purpose of abutter notification, the following items shall be submitted with the application:
  - i. An abutters list that includes the property owner, applicant and if applicable, authorized agent, all owners of properties that directly abut and/or that are across the street or stream from the parcel(s) that will be subject to review, all owners of properties located within two hundred (200) feet of the parcel(s) and holders of conservation, preservation, or agricultural preservation restrictions that will be subject to review. The certified list shall include all property owner names, property street addresses, property tax map parcel numbers, and mailing addresses if different from the property address. In the case of an abutting property being under a condominium or other collective form of ownership, the term “abutter” means the officers of the collective or association as defined in RSA 356-B:3, XXIII.

- ii. Two (2) sets of legible mailing labels (Avery size 5160 or equivalent) for each abutter and including the owner of the property that will be subject to review and his/her designated agent(s).
- iii. A check in an amount sufficient to cover the cost of legal notice advertising and required\_mailing.
- e. In accordance with RSA 676:5, IV, each application shall require the payment of an application fee to be determined by the Board, together with fees that may be required for investigative studies, document review or other administrative costs and expenses.

**B. Other Requirements**

- a. **Appeals of Administrative Decisions:** An appeal from an administrative decision, filed in accordance with RSA 676:5, shall be filed within thirty (30) days of such decision.
- b. **Person Authorized to Submit Applications:** To submit a proper application, an applicant must be one of the following persons:
  - i. The title or record owner of the subject property, or such owner's duly authorized agent, and signed as such on the application form.
  - ii. The holder of a valid Purchase & Sales Agreement or the holder of a valid Option for the purchase of the subject property (with a signed written consent of the title or record owner of such property, or such owner's duly authorized agent).
- c. **Documentation of Title or Authority to Appeal:** The Board may require the holder of record title to submit documentary evidence as to Petitioner's title and holders of Purchase and Sale Agreements or Options may be required to submit evidence that they are valid holders of such agreements before the Board will consider their application.
- d. **Inadequate Application:** Any Petitioner who submits an application, plans and/or exhibits that are deemed inadequate by the Clerk shall not be scheduled for a hearing before the Board until such time as the Clerk receives adequate plans or exhibits and application.
- e. **Floor Plans:** When, in the opinion of the Community Development Department, floor plans are necessary in the case of conversions or renovations to an existing structure, Petitioner shall furnish interior floor plans to scale. Floor plans need not be professionally drawn but must be a sufficient and accurate representation of the floor plan.

- C. **Deadline for filing:** All required information under these rules must be submitted to the Clerk before the scheduled deadlines to be submitted to the Board. The submittal deadline shall be no less than twenty-four (24) days prior to the next month's meeting. The application will not be placed on the agenda until all the required information is received in a format acceptable to the Clerk.
- D. **Notification to Abutters and Public:** The Clerk will set a date, time, and place for a public hearing and shall notify the applicant and all abutters within two hundred (200) feet of the property (using the notification materials required by Paragraph A.d.i., above) as required by RSA 676:7, and shall cause a public notice of the hearing to be published in a newspaper of general circulation in the area, at least five (5) days' prior to the date fixed for the hearing on the application (RSA 676:7, I). Pursuant to RSA 676:7, II, the public hearing shall be held within forty-five (45) days of the receipt of a properly completed application (Paragraph A.b. above).
- E. **Fees:** The petitioner shall pay the Clerk a non-refundable filing fee of Two Hundred and Fifty Dollars (\$250) at the time of filing. Additionally, reimbursement of the cost to notify each abutter, owner, and applicant by required mail based on the current USPS postal certificate of mail rate and to publish a legal notice advertisement in the local newspaper, a fee of Sixty-Two Dollars (\$62.00) must be paid at the time of filing.
- F. **Assistance by City Staff:** The Zoning Administrator will be available to assist the applicant with the application form, drawings and plans. If necessary, clarification of the Zoning Ordinance can be obtained from the Zoning Administrator, but the City will not provide legal advice as part of the application process.
- G. **Procedural Compliance:** Unless any objection is specifically raised or procedural defect otherwise noticed during a public hearing, the Board shall assume that any application has been properly filed and that due notice has been given as required by these Rules of Procedure, Keene's Zoning Ordinance, and State statutes.
- H. **Consent to Inspection:** Upon filing any application, the owner of the affected land implicitly consents to inspection of property and building by City staff and Board members upon reasonable prior notice and at a reasonable time. In the event that such an inspection is refused when requested, the application shall be dismissed without prejudice by the Board.
- I. **Supplemental Information:** If an applicant or applicant's agent submits supplemental information pertaining to an application within (10) days prior to the public hearing at which the application is to be heard, the board may consider during the meeting and decide by majority vote, whether to accept the supplemental information for consideration at the meeting, or to continue the application to the next scheduled meeting to allow adequate time to review the supplemental information.

### III. CONDUCT OF PUBLIC HEARINGS

- A. **Conduct:** The conduct of public hearings shall be governed by the following rules unless otherwise directed by the Chair:
- a. The Chair shall call the hearing in session, introduce the Board members, and review the previous meeting minutes for corrections, then vote to adopt.
  - b. The Chair shall read the legal notice and where appropriate summarize the legal requirements that must be met by the applicant in order to obtain the relief requested.
  - c. The Chair will ask the Staff Liaison to report on the first case, identified by case number.
  - d. Members of the Board may ask questions at any point during testimony.
  - e. Each person who appears shall be required to state his name, address, and indicate whether he is a party to the case or an agent or counsel of a party to the case.
  - f. Any member of the Board, through the Chair, may request any party to the case to speak a second time. The Chair may impose reasonable time restrictions on individuals who wish to speak.
  - g. Any party to the case who wants to ask a question of another party to the case must do so through the Chair.
  - h. The applicant shall be called first to present his appeal.
  - i. Those appearing in favor of the appeal shall be allowed to speak.
  - j. Those in opposition to the appeal shall be allowed to speak.
  - k. The applicant and those in favor shall be allowed to speak in rebuttal.
  - l. Those in opposition to the appeal shall be allowed to speak in rebuttal.
  - m. The Board may accept any evidence that pertains to the facts of the case or how the facts relate to the provisions of the zoning ordinance and State zoning law. Concerns with Supplemental Information being given to the Board without proper time for review as stated in II.I?
  - n. After all parties have been afforded a reasonable opportunity to testify, the public hearing shall be declared closed by the Chair and no further testimony will be received from the applicant or any other parties (other than minor technical or procedural information as may be needed from City staff), unless the Board, on its own motion, shall reopen the public hearing to receive additional testimony or information. If the hearing is reopened,



- F. **Appeal:** Any further appeal of a final decision or order of the Board shall be in accordance with RSA 677:4, *et seq.*
- G. **Records:** The records of the Board shall be kept by the Clerk and made available for public inspection from the Clerk at City Hall, 4<sup>th</sup> floor, Community Development Department, in accordance with RSA 673:17.
  - a. Final written decisions will be placed on file and available for public inspection within five (5) business days after the decision is made. RSA 676:3.
  - b. Minutes of all meetings including names of Board members, persons appearing before the Board, and a brief description of the subject matter shall be open to public inspection within five (5) business days of the public meeting. RSA 91-A:2, II.
  - c. The official record of the Zoning Board of Adjustment proceedings shall be the minutes after they have been approved (with corrections, if required) by the Board at a subsequent meeting.

#### IV. MISCELLANEOUS

- A. **Amendments:** Rules of Procedure shall be adopted or amended by a majority vote at a regular meeting of the Board provided that such new rules or amendments are proposed and discussed prior to the meeting at which the vote is to be taken and shall be placed on file with the City Clerk and be available for public inspection pursuant to RSA 676:1.
- B. **Waivers:** Any portion of these rules of procedure may be waived in such cases where, in the opinion of the Board, strict conformity would pose a practical difficulty to the applicant and waiver would not be contrary to the spirit and intent of the rules.
- C. **Joint Meetings and Hearings:** RSA 676:2, provides that the Board of Adjustment may hold joint meetings or hearings with other land use Boards, including the Planning Board, the Historic District Commission, the Building Code Board of Appeals, and the inspector of buildings, and that each Board shall have discretion as to whether or not to hold a joint meeting with any other land use Board.
  - a. Joint business meetings with any other land use Board may be held at any time when called jointly by the Chair of the two (2) Boards.
  - b. A public hearing on any appeal to the Board of adjustment will be held jointly with another Board **only** under the following conditions:
  - c. The joint public hearing must be a formal public hearing on appeals to both Boards regarding the same subject matter; and

- i. If the other Board is the Planning Board, RSA 676:2, requires that the Planning Board Chair shall chair the joint hearing. If the other Board is not the Planning Board, then the Board of Adjustment Chair shall chair the joint hearing; and
- ii. The provisions covering the conduct of public hearings, set forth in these rules, together with such additional provisions as may be required by the other Board, shall be followed; and
- iii. The other Board shall concur with these conditions.

\*\*\*\*\*

Adopted by the Zoning Board of Adjustment of the City of Keene, this 5<sup>th</sup> day of January 2026.

---

Richard Clough, Chair

Originally Adopted: May 3, 1993  
Revised: October 3, 1994  
Revised: February 3, 2003  
Revised: May 2, 2005  
Revised: August 7, 2006  
Revised: December 5, 2011  
Revised: June 5, 2017  
Revised: September 3, 2019  
Revised: April 20, 2021  
Revised: September 7, 2021  
Revised: February 7, 2022  
Revised: December 5, 2022  
Revised: April 1, 2024  
Revised: January 5, 2026