



## **City of Keene Zoning Board of Adjustment**

### **AGENDA**

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

I. Roll Call:

II. Minutes of Previous Meeting: September 15, 2025 & February 2, 2026

III. Hearings:

ZBA-2026-02: Petitioner, Spencer & Ashley Noyes, 134 Arch St., requests a Variance, for property located at 134 Arch St., Tax Map # 237-036-000-000 and is in the Rural District. The Petitioner is requesting a Variance to permit relief from the side setback of 50 ft for the installation of a 18' x 36' inground pool per Article 3.1.2 of the Zoning Regulations.

IV. Staff Updates:

V. New Business:

VI. Adjournment:

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**City of Keene  
New Hampshire**

**ZONING BOARD OF ADJUSTMENT  
SPECIAL MEETING MINUTES**

**Monday, September 15, 2025**

**6:30 PM**

**Council Chambers,  
City Hall**

**Members Present:**

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

**Staff Present:**

Evan Clements, Planner, Deputy Zoning  
Administrator

**Members Not Present:**

Tad Schrantz

**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. Mr. Clements stated that all of the hearings tonight will be continued to the next meeting, and only three members are needed for those votes. He continued that Mr. LeRoy is technically not a full member, and he is welcome to stay or go. Mr. LeRoy replied that he will stay, but does not need to be involved in the votes.

**II) Minutes of the Previous Meeting**

Chair Clough stated that there are no meeting minutes to vote on.

**III) Unfinished Business**

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

**IV) Hearings**

**A) ZBA-2025-13: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-002-000-001-002 and is in the Industrial Park District. The Petitioner requests**

33           **a Variance to allow a lot that does not meet the setback requirements per Article**  
34           **6.3.2 of the Zoning Regulations.**

35  
36 Chair Clough introduced ZBA-2025-13 and stated that the applicant has asked for a continuance.

37  
38 Mr. Guyot made a motion to continue ZBA-2025-13 to the next regularly scheduled meeting of  
39 the Zoning Board of Adjustment, October 6, 2025, at 6:30 PM. Mr. Burke seconded the motion,  
40 which passed by unanimous vote.

41  
42           **B) ZBA-2025-14: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St.,**  
43           **represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St.,**  
44           **Milford, requests a Variance for property located at 150 Congress St., Tax Map**  
45           **#598-002-000-001-002 and is in the Industrial Park District. The Petitioner requests**  
46           **a Variance to allow a lot that does not meet the minimum lot size requirements per**  
47           **Article 6.3.2 of the Zoning Regulations.**

48  
49 Chair Clough introduced ZBA-2025-14 and stated that the applicant has asked for a continuance.

50  
51 Mr. Burke made a motion to continue ZBA-2025-14 to the next regularly scheduled meeting of  
52 the Zoning Board of Adjustment, October 6, 2025, at 6:30 PM. Mr. Guyot seconded the motion,  
53 which passed by unanimous vote.

54  
55           **C) ZBA-2025-15: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St.,**  
56           **represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St.,**  
57           **Milford, requests a Variance for property located at 150 Congress St., Tax Map**  
58           **#598-002-000 and is in the Industrial Park District. The Petitioner requests a**  
59           **Variance to allow a lot that does not meet the parking surface requirements per**  
60           **Article 9.4.2 of the Zoning Regulations.**

61  
62 Chair Clough introduced ZBA-2025-15 and stated that the applicant has asked for a continuance.

63  
64 Mr. Guyot made a motion to continue ZBA-2025-15 to the next regularly scheduled meeting of  
65 the Zoning Board of Adjustment, October 6, 2025, at 6:30 PM. Mr. Burke seconded the motion,  
66 which passed by unanimous vote.

67  
68           **D) ZBA-2025-16: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St.,**  
69           **represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St.,**  
70           **Milford, requests a Variance for property located at 150 Congress St., Tax Map**  
71           **#598-002-000 and is in the Industrial Park District. The Petitioner requests a**  
72           **Variance to allow a lot that does not meet the minimum lot size requirements per**  
73           **Article 6.3.2 of the Zoning Regulations.**

74

75 Chair Clough introduced ZBA-2025-16 and stated that again, the applicant has asked for this to  
76 be continued to the October meeting.

77  
78 Mr. Burke made a motion to continue ZBA-2025-16 to the next regularly scheduled meeting of  
79 the Zoning Board of Adjustment, October 6, 2025, at 6:30 PM. Mr. Guyot seconded the motion,  
80 which passed by unanimous vote.

81  
82 **E) ZBA-2025-17: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St.,**  
83 **represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St.,**  
84 **Milford, requests a Variance for property located at 150 Congress St., Tax Map**  
85 **#598-002-000 and is in the Industrial Park District. The Petitioner requests a**  
86 **Variance to allow a lot where the building currently encroaches approximately four**  
87 **feet into the 30 foot side setback line on the southwesterly corner per Article 6.3.2 of**  
88 **the Zoning Regulations.**

89  
90 Chair Clough introduced ZBA-2025-17 and stated that the applicant has asked for a continuance.

91  
92 Mr. Guyot made a motion to continue ZBA-2025-17 to the next regularly scheduled meeting of  
93 the Zoning Board of Adjustment, October 6, 2025, at 6:30 PM. Mr. Burke seconded the motion,  
94 which passed by unanimous vote.

95  
96 **F) ZBA-2025-18: Petitioner, Mike Gokey, of Markem-Imaje, 150 Congress St.,**  
97 **represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm St.,**  
98 **Milford, requests a Variance for property located at 150 Congress St., Tax Map**  
99 **#598-002-000 and is in the Industrial Park District. The Petitioner requests a**  
100 **Variance to allow an indoor recreation/entertainment facility where not permitted**  
101 **per Article 6.3.5 of the Zoning Regulations.**

102  
103 Chair Clough introduced ZBA-2025-18 and stated that the applicant has asked for this to be  
104 continued to the October meeting.

105  
106 Mr. Guyot made a motion to continue ZBA-2025-18 to the next regularly scheduled meeting of  
107 the Zoning Board of Adjustment, October 6, 2025, at 6:30 PM. Mr. Burke seconded the motion,  
108 which passed by unanimous vote.

109  
110 Mr. Clements stated that for the record, the October 6, 2025 meeting will be at 6:30 PM, in  
111 Council Chambers, located on the second floor of City Hall.

112  
113 **V) New Business**

114  
115 Chair Clough asked if there was any new business. Mr. Clements replied no.

116  
117 **VI) Staff Updates: Master Plan & Annual City Council Report**

118

119 Chair Clough asked if staff had any updates. Mr. Clements replied no.

120

121 **VII) Communications and Miscellaneous**

122

123 **VIII) Non-public Session (if required)**

124

125 **IX) Adjournment**

126

127 There being no further business, Chair Clough adjourned the meeting at 6:40 PM.

128

129 Respectfully submitted by,

130 Britta Reida, Minute Taker

131

132 Reviewed and edited by,

133 Corinne Marcou, Board Clerk

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City of Keene  
New Hampshire

ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES

Monday, February 2, 2026

6:30 PM

Council Chambers,  
City Hall

Members Present:

Richard Clough, Chair  
Edward Guyot, Vice Chair  
Tad Schrantz  
Adam Burke  
Stephen Buckley, Alternate  
Michael Zoll, Alternate

Staff Present:

Evan Clements, Planner, Zoning  
Administrator

Members Not Present:

Zach LeRoy

**I) Introduction of Board Members**

Chair Clough called the meeting to order at 6:30 PM and explained the procedures of the meeting. Roll call was conducted. Chair Clough asked Alternate Member Mr. Zoll to join as a voting member for the rest of the meeting.

**II) Minutes of the Previous Meeting: January 5, 2026**

Mr. Buckley noted a change to the January 5<sup>th</sup> meeting minutes. He continued that the “Members Not Present” list says he and Michael Zoll were not present, but they were not members yet. They had not been sworn in yet. Thus, their names should be removed from last month’s roster. Chair Clough agreed.

Mr. Guyot made a motion to approve the amended meeting minutes of January 5, 2026. Mr. Schrantz seconded the motion, which passed with a vote of 4-0. Mr. Burke abstained.

**III) Unfinished Business**

Chair Clough asked if there was any unfinished business. Evan Clements, Planner, Zoning Administrator, replied no.

**IV) Hearings**

33           **A) ZBA-2026-01: Petitioner, Samuel & Cassie Brown, of 56 Birch St., requests a**  
34           **Variance, for property located at 56 Birch St., Tax Map # 538- 047-000-000 and is in**  
35           **the Low-Density District. The Petitioner is requesting a Variance to permit a garage**  
36           **addition that will encroach approximately 2.5 ft into the 10 ft side setback, per**  
37           **Article 3.3.2 of the Zoning Regulations.**  
38

39 Chair Clough introduced ZBA 2026-01 and asked to hear from staff.  
40

41 Mr. Clements stated that the subject parcel is an existing .026-acre residential lot located on the  
42 southern side of Birch St. between the intersections with Balsam St. to the east and Needle St. to  
43 the west. He continued that the property contains an existing single-family home with attached  
44 garage and driveway. The property is part of the Pine Banks Extension Subdivision from 1946,  
45 which is characterized as a traditionally mid-century suburban neighborhood. This application  
46 seeks a Variance from the 10-foot side yard setback requirement in the Low Density District, to  
47 accommodate the addition of a second garage bay with additional living space above the western  
48 side of the residence. Construction of the addition will require encroachment of approximately  
49 2.5 feet into the side yard setback.  
50

51 Mr. Clements continued that when this application was initially submitted, there was some  
52 confusion between the measurement of where that 2.5-foot number was coming from. He spoke  
53 with the Applicant, who can provide some additional information about where that measurement  
54 is from, and the true amount of relief required with this application. They want to make sure the  
55 measurement is from the overhang on the drip edge of the roof, and not the wall of the addition.  
56 It is not a substantial change in the total amount of relief required, but being precise is important.  
57

58 Mr. Clements continued that again, this neighborhood is Low Density in all directions, with  
59 single-family residential uses. The staff report contains setback and build-to dimension  
60 definitions from the Land Development Code (LDC) and all dimensional and siting requirements  
61 within the Low Density District, including lot area, building line, frontage requirements, and  
62 other setbacks. The only suggested condition staff has is the codification of existing practice with  
63 the building team in the Community Development Department. Any time a new structure is  
64 proposed to be within five feet of a building setback line, the Department requires that the  
65 foundation corner be pinned by a surveyor and then verified by a building inspector, before  
66 excavation and pouring begins, just to ensure that there are no mistakes in measurement. Staff  
67 request that that practice be put as a condition on this application, if the Board decides to grant  
68 the relief this evening.  
69

70 Chair Clough asked if there were questions for Mr. Clements. Hearing none, he asked the  
71 Applicant to speak.  
72

73 Cassie Brown of 56 Birch St. stated that she owns a ranch-style, single-family home in the tree  
74 street district. She continued that she and her family are requesting the Variance so they can

75 eliminate their tiny, one-bay garage and replace it with a double bay, with additional living space  
76 above to include a master bedroom, bedroom, and small office space.

77

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

79

80 Ms. Brown stated that the proposed addition with the two-bay garage will remain consistent with  
81 the residential use and character of the neighborhood. She continued that the new garage will  
82 reduce her family relying on street parking. It will improve safety and aesthetics. It will not  
83 interfere with neighboring properties' access to light, air, or views. It will not create additional  
84 drainage or traffic concerns. Other properties in the area have similar garages, so the  
85 improvement will be in harmony with the community and zoning intent.

86

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

88

89 Ms. Brown stated that the Ordinance is to ensure orderly development, protect neighboring  
90 properties, and preserve the residential character of the neighborhood. She continued that the  
91 proposed serves as a typical residential use. It fits within the scale of the property and aligns with  
92 the character of surrounding homes. Granting the Variance allows the Ordinance's intent to be  
93 honored while reasonably accommodating the lot's conditions.

94

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

96

97 Ms. Brown stated that the benefit to the homeowner, safe, functional parking, and reasonable use  
98 of the property, outweighs any minimal impact to the public, which is essentially none. She  
99 continued that granting the Variance allows their family of six to use the property safely and  
100 fully, while denial would create an unnecessary hardship by restricting them to an undersized  
101 and outdated garage. The benefit to their family far outweighs any minimal or non-existent  
102 impact to the public. Denying the Variance would create an unnecessary hardship without  
103 providing any corresponding public benefit.

104

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

107

108 Ms. Brown stated that a new, well-designed garage with addition will enhance the appearance  
109 and functionality of the property, and secondarily, improve the neighborhood values overall.

110

111 5. *Unnecessary Hardship*

112

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

115

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

118 Ms. Brown stated that the property has unique conditions that create a hardship. She continued  
119 that the existing single-bay garage does not reasonably meet the needs of a modern household,  
120 forcing them to rely on on-street parking. Due to the lot layout and existing structure placement,  
121 strict enforcement of the Ordinance would prevent a reasonable and customary improvement.  
122 Expanding to a two-bay garage is a modest, practical solution consistent with typical residential  
123 use and other homes in the area.

124  
125 *and*

126 *ii. The proposed use is a reasonable one.*  
127

128 Ms. Brown stated that a two-bay garage is a typical and appropriate accessory structure for a  
129 single-family home. She continued that it provides safe, off-street parking and storage consistent  
130 with the residential nature of the property and the neighborhood. It does not alter the character of  
131 the community. It will not increase traffic or noise. It is in line with what is commonly found on  
132 similar lots. Denial of the proposed Variance would harm the owners without benefiting the  
133 public. Granting the Variance allows their family to use the property safely and fully, while  
134 denial would create an unnecessary hardship by restricting them to an undersized and outdated  
135 home. The benefit to their family outweighs any nonexistent impact to the public.

136  
137 Ms. Brown stated that now that she has gone through all five criteria, she would like to revisit the  
138 relief they are asking for, the 2.5 feet out of the 10-foot setback. She continued that she checked  
139 with their builder, their architect, and just for continuity, their surveyor. The 2.5 feet is measured  
140 from the wall to the setback. If they were to include the drip edge, they would actually need 48  
141 inches, or 4 feet into that 10-foot setback.

142  
143 Chair Clough asked if the Board had any questions for Ms. Brown. Hearing none, he asked for  
144 public comment, either in opposition or in support. He noted that he did not hear anyone from  
145 the public wishing to speak.

146  
147 Mr. Schrantz asked if anyone emailed or called about this application. Mr. Clements replied no,  
148 staff have not had any correspondence related to this application.

149  
150 Chair Clough closed the public hearing and asked the Board to deliberate on the five criteria.

151  
152 *1. Granting the Variance would not be contrary to the public interest.*  
153

154 Mr. Schrantz stated that he does not think there is a harm to the public interest here. He  
155 continued that the case has been laid out that the house was built in the '40s or '50s, and it is a  
156 different era. The neighborhood has changed over time. He does not see a harm.

157  
158 Mr. Guyot stated that he agrees. He continued that looking from the aerial view, it seems like  
159 there is sufficient spacing between the lots; it seems to be reasonable. He continued that public  
160 interest, in terms of on-street parking, goes a long way, in his mind.

161 Chair Clough agreed.

162

163 Mr. Burke stated that he agrees. He continued that there was no feedback from the public that  
164 was contrary to this application.

165

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

167

168 Mr. Guyot stated that he agrees, for the same reasons relative to the first criterion.

169

170 Mr. Schrantz stated that it is contrary to the setback rules that they have laid out, but he does not  
171 see it as such an intrusion or such an impediment to the neighborhood or the neighbors that it  
172 would cause any harm. Thus, he is fine with the second criterion.

173

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

175

176 Chair Clough stated that this criterion is about weighing the public good versus what the  
177 Applicant needs, and he does not see anything with the public good that would be negatively  
178 impacted. He continued that it could thus be said to be doing justice.

179

180 Mr. Schrantz stated that he thinks it is doing good, because it improves the neighborhood and  
181 does not cause any harm. He continued that he thinks it is a positive thing.

182

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

185

186 Chair Clough stated that this one is obvious. He continued that the Browns have spent a lot of  
187 time on this. They have worked to integrate it with the existing house, and it will most certainly  
188 be an upgrade, which would assist all the neighbors.

189

190 5. *Unnecessary Hardship*

191

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

194

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

197

198 Chair Clough stated that as is true of most ranch-style houses, this has the long side along the  
199 street, and on a lot that is a little bit narrow, that tends to put the ends closer to the property lines.  
200 He continued that any building laterally is a bit challenging. Also, because of that alignment,  
201 trying to significantly change the alignment of the garage would probably not help its curb  
202 appeal and would actually make it a little more awkward, if that garage were oriented in any  
203 other way, such as moving it back to try and make another access. If it were not a ranch like that,

204 there might be a little more flexibility. Making it easy and trying to continue it where there is an  
205 existing garage and an existing driveway maintains the curb appeal, and he thinks it is almost the  
206 only type of alignment that can be used.

207

208 Mr. Guyot agreed and stated that he will add that a lot of his rationale for saying yes to the fifth  
209 criterion is in the well-written paragraph by the Applicant. He continued that he thinks it is  
210 concise and sums up the issues well.

211

212 *and*

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

214

215 Chair Clough stated that it is augmenting a residence with a garage bay and residential space  
216 above. He continued that it seems reasonable and is not a change of use in any way.

217

218 Mr. Schrantz stated that he applauds the applicant for making the investment in the  
219 neighborhood and in Keene. He continued that Keene needs housing, and improvements to the  
220 housing that is here, so if someone wants to take the time and well thought out effort like what  
221 has been applied here, he applauds that.

222

223 Chair Clough asked if the Board had anything else to say. Hearing none, he continued that he  
224 would entertain a motion. He personally agrees with the condition staff wanted to add to the  
225 motion.

226

227 Mr. Guyot made a motion to approve ZBA-2026-01, for the Variance to allow approximately  
228 four-foot encroachment into the 10-foot side yard setback to accommodate an addition for  
229 property located at 56 Birch St., Tax Map #538-047-000-000, as shown in the application and  
230 supporting materials received on December 1, 2025, with the following condition: foundation  
231 corners shall be pinned by a licensed surveyor and verified by a City Building Inspector prior to  
232 construction. Mr. Burke seconded the motion.

233

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

235

236 Met with a vote of 5-0.

237

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

239

240 Met with a vote of 5-0.

241

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

243

244 Met with a vote of 5-0.

245

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

248  
249 Met with a vote of 5-0.

250  
251 5. *Unnecessary Hardship*

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

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

258  
259 Met with a vote of 5-0.

260  
261 *and*

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

263  
264 Met with a vote of 5-0.

265  
266 The motion to approve ZBA-2026-01 with the stated condition passed by unanimous vote.

267  
268 Mr. Buckley stated that he would encourage the Board to adopt the findings of fact as a separate  
269 motion. He continued that he think the law requires it, and he thinks it would be easy to have the  
270 Board vote to state that they agree with the Applicant's assessment, that existing conditions  
271 create a hardship due to the fact that this is a subdivision from 1946, with the house built in the  
272 1950's, with different configuration of household usage, and different requirements for larger,  
273 modern cars dictate the necessity and therefore defines the hardship for the existence of this  
274 particular need. He thinks that something along those lines, as a finding of fact, should be made  
275 by the Board. He knows the Board's practice is to rely on staff to put the findings of fact in the  
276 notice of decision, but he does not think that is the better way to proceed. He thinks it is better  
277 for the Board to enunciate those findings of fact, or at least one, when it makes its motion to  
278 approve, or as a separate part of the decision-making process.

279  
280 Chair Clough asked for comments on that. Mr. Schrantz asked for staff's thoughts. He continued  
281 that what Mr. Buckley said is well-thought and well-presented, but it seems like something they  
282 should dig into a bit.

283  
284 Mr. Clements replied that the short answer is he does not have a problem with it. He continued  
285 that the specificity and clarity make a strong approval just as well as they make a strong denial.  
286 Every municipality does it a little bit differently. Keene's practice includes, in the final notice of  
287 decision, including the meeting minutes that include the deliberation. He and Mr. Buckley have  
288 briefly discussed adding findings of fact into the motion language. It cannot hurt and might be a

289 practice they want to adopt. This evening, they can do it or put a pin in it and talk about it more  
290 next time. He briefly talked with the City Attorney about it, too, and she does not have any issue  
291 with it at first glance. It is up to the Board. Specificity cannot hurt an applicant and makes a  
292 stronger decision of the Board. The statute Mr. Buckley was referring to was changed within the  
293 last three years, so he does not know if there is any solid case law to point in the direction of  
294 what is a good practice versus a bad practice. What they are doing now, versus adding another  
295 motion or adding the findings of fact in the final motion language, is still a little up in the air, as  
296 far as he is aware.

297  
298 Mr. Clements continued that he thinks what Mr. Buckley articulated specifically related to this  
299 application is a really solid finding. Certainly, it would only benefit the Applicant to include, in  
300 this case, maybe a separate findings of fact motion referring to what Mr. Buckley just articulated.  
301 That might work in the short term, and then the Board can talk in greater length about modifying  
302 its practice.

303  
304 Chair Clough replied that that sounds good to him. He asked if anyone remembers Mr. Buckley's  
305 words well enough to state them as a motion. Mr. Buckley replied that he would be happy to give  
306 suggested wording and did so.

307  
308 Mr. Guyot made a motion to state that as findings of fact supporting the decision granting the  
309 Variance, the Board agrees that the single-bay garage that was built sometime between 1946  
310 when the subdivision was approved and the 1950's, and was an older, less modern style of  
311 family living and layout that does not accommodate modern ways and means of a family living  
312 with larger vehicles, dictating the fact that there are special conditions inherent in how the house  
313 was built then that do not fit current circumstances. Mr. Burke seconded the motion, which  
314 passed by unanimous vote.

315  
316 **V) New Business**

317  
318 **VI) Staff Updates**

319  
320 **VII) Communications and Miscellaneous**

321  
322 Mr. Buckley stated that he has a question for staff, as he wants to clarify how the setback is  
323 measured. He continued that the definition in the Zoning Ordinance says that the setback is the  
324 distance between any property line and the nearest point to which any building or structure can  
325 be erected. His question would be, going forward from here, whether it will be staff's position  
326 that that measurement is always from the overhang, or the nearest part of the structure, or the  
327 building line. He suggests that it would be a good idea to clarify this for applicants going  
328 forward, regarding whether it is measured from the overhang or any part of the building that is  
329 nearest to the setback being measured, or something like that.

330

331 Mr. Clements replied that fundamentally, that is what the definition is saying – that it is the  
332 closest point of the building to the property line. He continued that in this case; it is the drip edge  
333 of the proposed addition. In this instance, this application was submitted with no warning. In  
334 most cases, the City knows an application is coming. In this case, he does not know how close to  
335 the deadline it was, but the application walked through the door, so when he reviewed it, his one  
336 question was where they were measuring it from. When he first reached out to the Applicant,  
337 they did not know. It took them some time to work with the builder and the architect, as the  
338 Applicant explained, which is why they asked for the continuance in January, to be prepared for  
339 the answer to that question this evening.

340  
341 Chair Clough thanked Mr. Clements and replied that members who have been on the Board for a  
342 while have encountered that that is the regular procedure, but certainly with this case, it did  
343 create a bit of a bottleneck and a delay in the deliberations.

344  
345 Chair Clough asked if there was anything else. Mr. Guyot replied that to return to the previous  
346 conversation, about whether to add the findings of fact motion, he personally would like to hear  
347 from the City Attorney about the matter. He continued that he has some questions, such as who  
348 will present those additional requirements; whether it will be embedded in the application itself,  
349 which would be a change to the current application format; and what kind of guidelines the  
350 Board will have for future applicants in that regard, if the Board decides to adopt this as a  
351 process going forward. He is not against it, but he thinks the Board would need to have some  
352 structure around it so that everything is consistent. He does not know if the City Attorney will  
353 tell them there should be some form of public commentary. He would like legal guidance.

354  
355 Mr. Clements replied that to answer the last question first, the Board has control over its Rules of  
356 Procedure. He continued that they just did a change to the Rules of Procedure at the end of last  
357 year – they talked about the proposed changes in one meeting and then adopted them at the next  
358 meeting. There is no public hearing for that. The statute that was recently changed was more  
359 about denials than approvals, but it is any decision of the Board. Some of the legislative intent  
360 was to address the fact that some boards were denying applications and providing very little  
361 guidance to an applicant on why they were denying it, or what part of the application the case  
362 fell down on. The statute says, “*the board shall render findings of fact,*” which are very clear  
363 points for why the board, collectively, believes the application survives the Variance test. The  
364 Board sort of does that in the deliberative step. Then, staff pulls from the minutes and puts that in  
365 as findings of fact in the notice of decision. Where Mr. Buckley comes from is that there is some  
366 potential gray area in that practice, versus having the Board either in its motion to render a  
367 decision, or as a separate motion, codifying the findings of fact. That makes it very clear that  
368 those are the Board’s findings of fact. There is the literal interpretation of the law, and then there  
369 is the practice and administration of it. Not all zoning boards are blessed with people who have a  
370 lot of experience in this environment, in law, and in how to do things exactly how the statute  
371 book might be read. The courts have said that there is some wiggle room there, but at the same  
372 time, there is good practice, to protect the Board, protect the City, and protect the applicants as

373 well. Having this discussion and seeing what makes the most sense, in terms of what the Board is  
374 doing now versus what it can change to be better, cannot hurt.

375  
376 Mr. Guyot replied that he agrees it cannot hurt, he just thinks they should formalize it. He  
377 thanked Mr. Clements for the information, and continued that he thinks the Board should have a  
378 final step, just prior to the final motion, laying out the findings of fact so they can then rely on  
379 them relative to the approval or denial. Mr. Clements agreed and stated that staff cannot pre-  
380 render findings of fact for the Board. Mr. Guyot agreed and continued that the Board needs to  
381 add the step into its process, right before the motion is made to approve or deny. Those findings  
382 of fact will potentially affect how the motion is done. Mr. Clements replied yes, he imagines the  
383 motion about the findings of fact would occur at the end of the Board's deliberations. He  
384 continued that they can talk about it more, but for instance, the Board could deliberate on each of  
385 the Variance criteria and then go through the criteria again to articulate the findings of fact the  
386 Board agrees on, or they could articulate the findings of fact as they go through deliberations on  
387 the criteria. They do not need to figure it out right this second; they can talk about it more, talk  
388 with the City Attorney, and look at the Rules of Procedure. If they decide they want to adopt this  
389 practice, they might want to add it to the Rules of Procedure somewhere. Mr. Guyot replied that  
390 he agrees that once the Board decides what the methodology will be, it should be added to the  
391 Rules of Procedure.

392  
393 Chair Clough stated that that was a good discussion. He continued that what he envisions is that  
394 in the deliberations, just before they finish with each criterion, they could pause and say, for  
395 example, *"then we find that in fact, because it was built in X number of years and does not*  
396 *match up with current XYZ, that is why we find that is a special case..."* They can pull verbiage  
397 from the application to support the findings of fact. That could be done as a separate motion, or  
398 they could just make sure they are clearer. For instance, by not just saying, *"Well, it sounds*  
399 *good,"* but instead articulating the findings of fact, which is what they will be voting for or  
400 against.

401  
402 Mr. Buckley stated that the statute, Chapter 676:3, is very clear about the fact that if a board  
403 denies a Variance, it has to state why, and it has to support the denial with findings of fact. He  
404 continued that if the board does not, the decision is automatically reversed on appeal to the  
405 Superior Court. There are some very important procedural consequences to not making findings  
406 of fact. Absolutely, it makes sense to get the City Attorney's input on what the best thing to do  
407 is.

408  
409 Mr. Guyot stated that the importance rises when there is a denial. Chair Clough replied or even  
410 when the Board approves an application that had more audience participation than tonight's did.  
411 He continued that there have certainly been times when the Board has approved something that  
412 many members of the public disagreed with, so the Board justifying its decisions is very  
413 important in those cases as well. Mr. Guyot replied that at least in his tenure, they have had some  
414 of both types of situations.

415

416 Chair Clough stated that this was a good discussion to have started.

417

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

419

420 **IX) Adjournment**

421

422 There being no further business, Chair Clough adjourned the meeting at 7:13 PM.

423

424 Respectfully submitted by,

425 Britta Reida, Minute Taker

426

427 Reviewed and edited by,

428 Corinne Marcou, Board Clerk

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# STAFF REPORT

## ZBA-2026-2 – VARIANCE – SIDE YARD SETBACK, 134 ARCH ST

### **Request:**

Petitioner, Spencer & Ashley Noyes, 134 Arch St., requests a Variance, for property located at 134 Arch St., Tax Map # 237-036-000-000 and is in the Rural District. The Petitioner is requesting a Variance to permit relief from the side setback of 50 ft for the installation of a 18' x 36' inground pool per Article 3.1.2 of the Zoning Regulations.

### **Background:**

The subject property is an existing 2-acre lot located on the southern side of Arch St, approximately 900 ft east of the intersection with Whitcombs Mill Rd. The property contains an existing ~2,600 SF single family residence with attached garage and associated site improvements. The property is relatively flat. The White Brook is located along the southwestern corner of the property.

Located to the rear of the property on an adjacent parcel is Langdon Place assisted living facility. A 50 ft right-of-way easement exists along the western edge of the subject property to the benefit of Langdon Place and contains an access drive through the subject property that connects Langdon Place to Arch St. The subject property has connected the driveway for the single family residence to this access drive in order to reach Arch St.

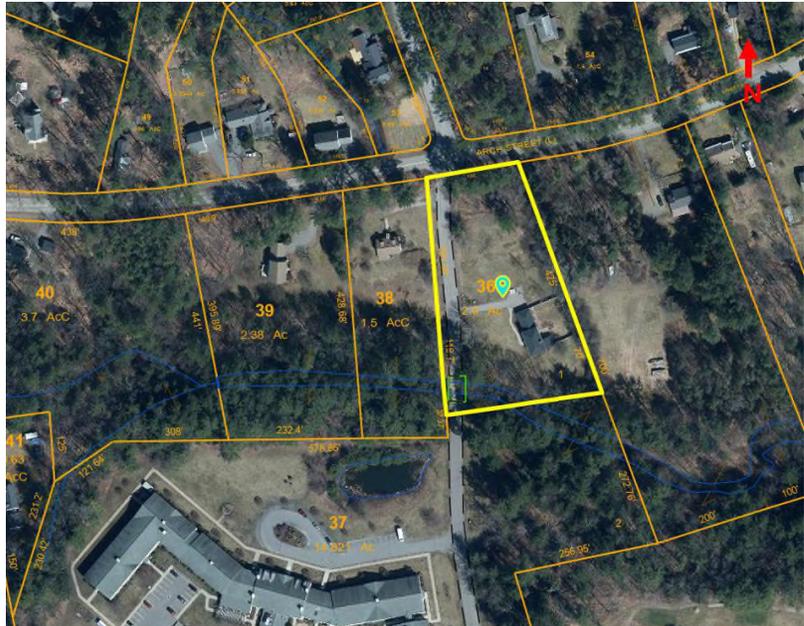


Fig 1: Aerial of 134 Arch St outlined in yellow

The purpose of this application is to seek a Variance to allow for the construction of an 18 ft x 36 ft inground pool to be located entirely within the side yard setback. The proposed location of the pool is within an existing fenced in area located to the east of the single-family residence. The residence is oriented to face the access drive with the fenced in area as the “back yard.”

# STAFF REPORT

## Surrounding Uses:

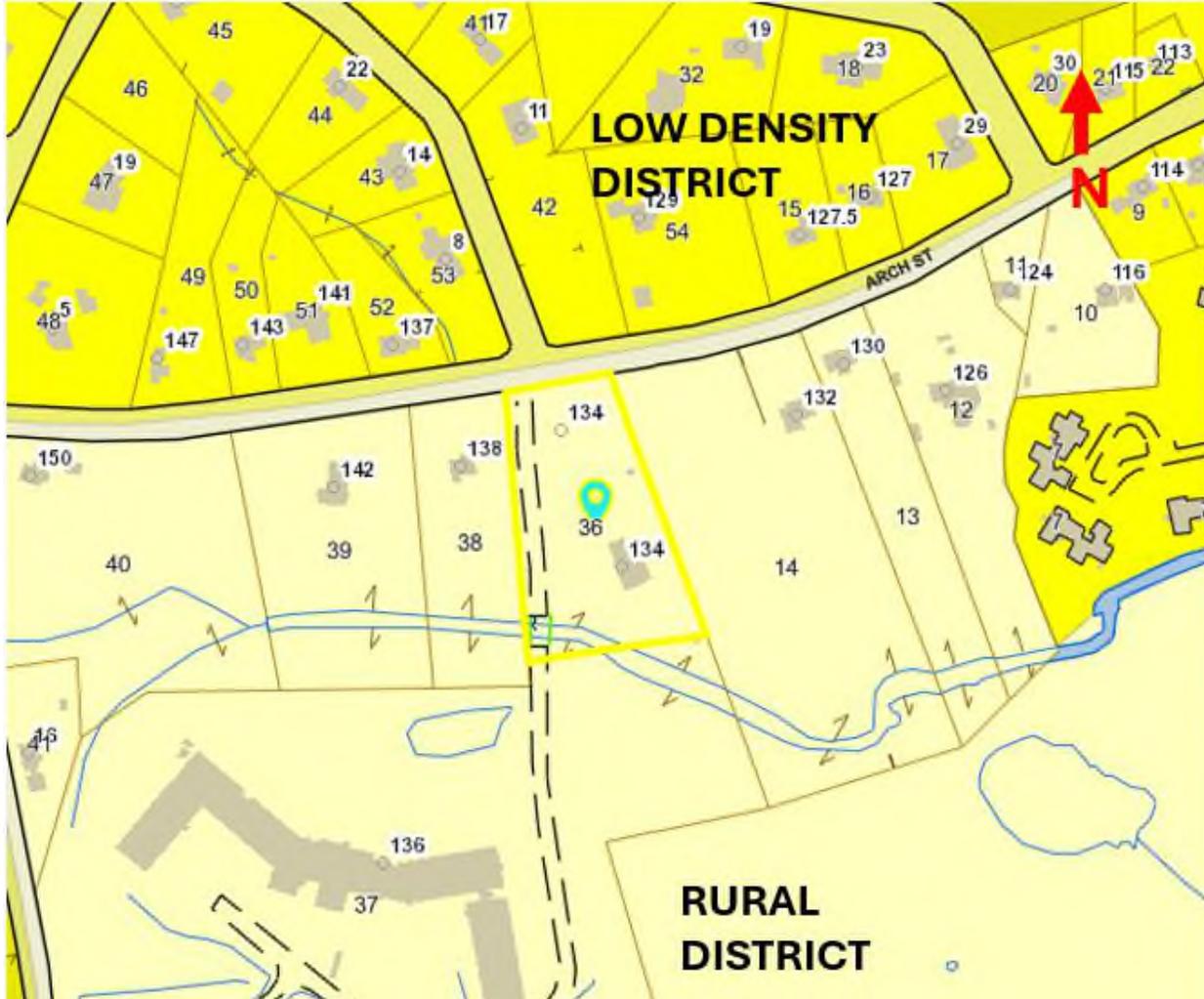


Fig 2: 134 Arch St outlined in yellow with surrounding zoning districts

**North:** Single-family Residential

**South:** Assisted Living Facility

**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.

**3.1.1 Purpose:** The Rural (R) District is intended to provide for areas of very low density development, predominantly of a residential or agricultural nature. These areas are generally outside of the valley floor, beyond where city water, sewer and other city services can be readily supplied.

### **3.1.2 Dimensions & Siting:**

Min Lot Area	2 acres
Min Lot Width at Building Line	200 ft
Min Road Frontage	50 ft
Min Front Setback	50 ft
Min Rear Setback	50 ft
Min Side Setback	50 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-2026-02, for the Variance to allow for the construction of an 18 ft x 36 ft inground pool to be located entirely within the side yard setback on property located at 134 Arch St., Tax Map # 237-036-000-000 as shown in the application and supporting materials, received on February 6, 2026 with no conditions.”***

134 ARCH ST.  
ZBA-2026-02



Petitioner requests relief from the side setback of 50 ft. per Article 3.1.2 of the Zoning Regulations.



## **Notice of Public Hearing**

A meeting of the Keene Zoning Board of Adjustment will be held on **Monday, March 2, 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-2026-02:** Petitioner, Spencer & Ashley Noyes, 134 Arch St., requests a Variance, for property located at 134 Arch St., Tax Map # 237-036-000-000 and is in the Rural District. The Petitioner is requesting a Variance to permit relief from the side setback of 50 ft for the installation of a 18' x 36' inground pool per Article 3.1.2 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.

## SECTION 2: PROPERTY INFORMATION

Property Address: 134 Arch St

Tax Map Parcel Number: 237-036-000

Zoning District Rural

Lot Dimensions: Front: 158 Rear: 273.78 Side: 697.76 Side: 449.65

Lot Area: Acres: 2 Square Feet:

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 4.6 Proposed: 5.38

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 7.74 Proposed: 8.52

Present Use: single family

Proposed Use: same

## SECTION 3: WRITTEN NARRATIVE

**Article 26.5.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

Spencer & Ashley Noyes, owners of the property @ 134 Arch St seek relief from side-yard setback of 50' (Rural) for purpose of installing a 12'x36' inground pool w/in the back yard's 6' privacy fence. A variance may be granted where:

- ① we live in a residential neighborhood & the pool can't be seen or accessed by the public;
- ② aside from one setback deviation the project is fully compliant and otherwise fully consistent w/ the spirit of our LDC;
- ③ the loss we would suffer in the use/enjoyment of our property far exceeds any gain to the public;
- ④ a family pool in a residential neighborhood couldn't possibly be seen to diminish surrounding property values;
- ⑤ it would create an unnecessary hardship to enforce a 50' setback due to the long & narrow shape of our lot and where our house is situated such that our house's back yard abuts the side line (not rear line) & the back yard space is the most traditional & reasonable space for a family pool in a residential neighborhood.

## SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) 3.1.2 of the Zoning Regulations to permit:

Installation of a 18'x36' inground pool

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:

① see addendum

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

② see addendum

3. Granting the variance would do substantial justice because:

③ see addendum

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

④ see addendum

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:

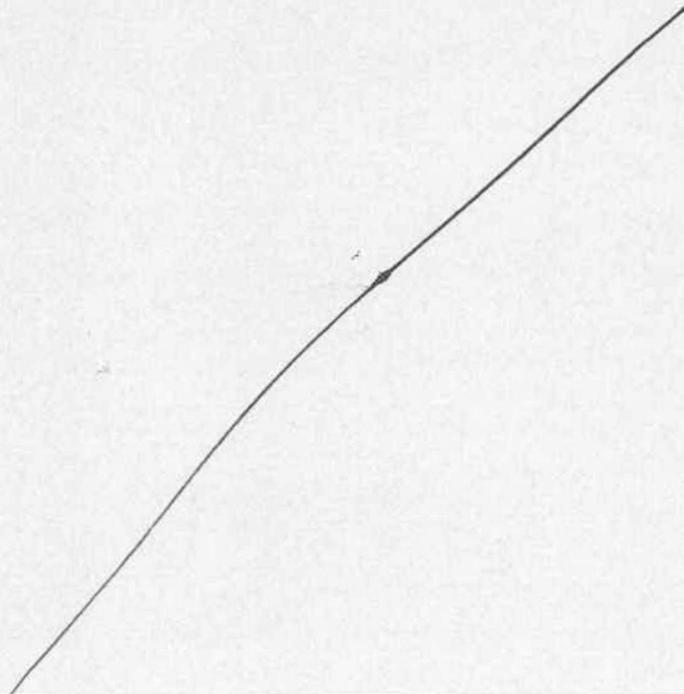
⑤ see addendum

and

ii. The proposed use is a reasonable one because:

⑤ see addendum

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.





## 134 Arch St Variance Application Addendum

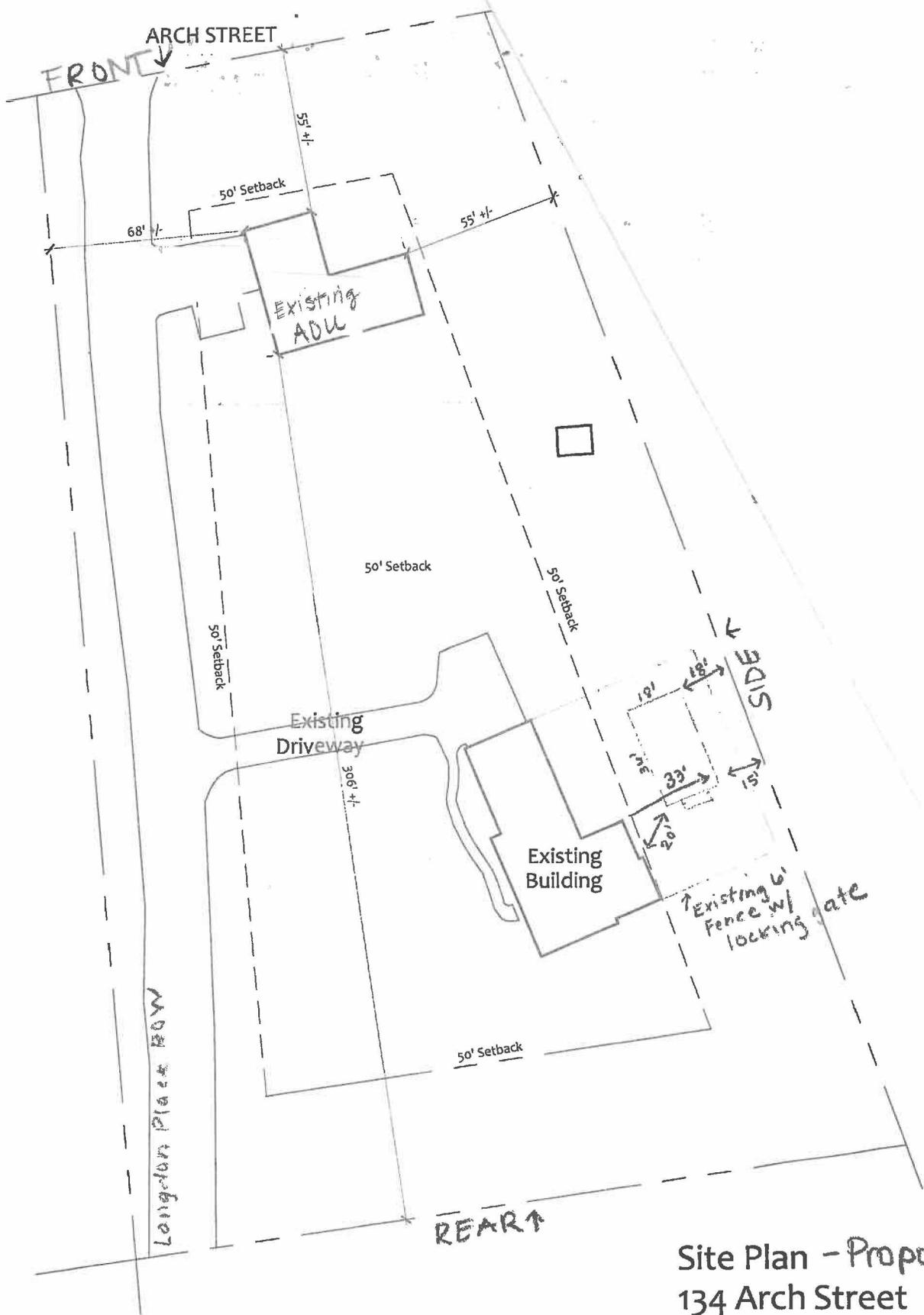
① The Supreme Court has held that to be contrary to the public interest or injurious of public rights, the variance "must unduly, and in a marked degree" conflict with the basic zoning objectives of the ordinance. *Chester Rod & Gun Club*, at 581; and *Harborside* at 514. In making such a determination, the ZBA should examine whether the variance would (a) alter the essential character of the locality or (b) threaten public health, safety or welfare. *Id.* See also, *Malachy Glen Associates, Inc. v. Town of Chichester*, 155 N.H. 102, 105-106 (2007); and *Naser d/b/a Ren Realty v. Town of Deering Zoning Board of Adjustment*, 157 N.H. 322 (2008). Although we remain categorized as rural, most all of the surrounding properties have since been re-zoned to low-density which has a stark difference in zoning requirements. The locality of this area is completely residential and varied in lot size/shape/etc. A recreational swimming pool for our family doesn't alter that residential character at all, in fact can be argued to bolster said familial character. A family just installed an in-ground pool, two-doors down at 147 Arch St. this past year. Moreover, placing a residential pool within the bounds of our already existing, 6-foot, privacy fence has no effect on public health, safety or welfare- it can't be seen or accessed by the general public. Therefore, granting the variance would not be contrary to the public interest in the least.

② The case of *Chester Rod & Gun Club v. Town of Chester*, 152 N.H. 577 (2005) and its progeny continues to control this issue - that the criteria of whether the variance is "contrary to the public interest" should be construed together with whether the variance "is consistent with the spirit of the ordinance". *Id.*, at 580; see also, *Harborside Associates, L.P. v. Parade Residence Hotel, LLC*, 162 N.H. 508 (2011). The purpose and intent of Keene's LDC is to protect, promote, and improve the public health, safety and general welfare of the City of Keene and its inhabitants, and to facilitate orderly development and the compatible use of land that will result in a strong viable economy, enhance the attractiveness of the community, preserve the quality and function of natural systems and maintain and enhance quality of life in the City of Keene, while not imposing unreasonable costs upon the City. As stated above, granting a setback variance for a private, residential pool that can't be seen or accessed by the public couldn't possibly be seen as contrary to the public interest nor injurious of public rights and therefore certainly wouldn't "unduly, and in a marked degree" conflict with the basic zoning objectives of the LDC. Additionally by following all of the LDC's requirements, with this one exception, we also seek to facilitate orderly development and compatible use of our land; it is a beautiful pool design that will be enjoyed by our young, big family for years to come, maintaining and enhancing our family's quality of life, life-long members of this community. Finally there will be no unreasonable costs placed upon the City, to the contrary, the City will likely produce even more revenue from our property taxes which are already substantial at almost \$12,000/year. In sum, granting the variance, would be consistent, fully reinforce, the spirit of the LDC.

③ The Supreme Court reference in *Malachy Glen*, 155 N.H. at 109 to the Peter J. Loughlin, Esq., treatise will continue to apply. See, *Loughlin, Land Use, Planning and Zoning, New Hampshire Practice*, Vol. 15, 4th ed., and its reference to the *Office of State Planning Handbook*, which indicates as follows: "It is not possible to set up rules that can measure or determine justice. Each case must be individually determined by board members. Perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. The injustice must be capable of relief by the granting of a variance that meets the other qualifications." The loss of use and enjoyment of our property which we could suffer as a

family far exceeds any gain to the general public in not allowing a recreational swimming pool which cannot be seen or accessed by anyone but our family and friends visiting our back yard. Not granting the variance would create a substantial injustice to our family and be of no gain to the general public.

- ④ In considering whether an application will diminish surrounding property values, Board members may consider their own experience and knowledge of the physical location. In addition it can be appropriate for ZBAs to consider expert testimony and abutter opinion. See, *Malachy Glen*, 155 N.H. at 107. As stated above, our neighbors also just installed a pool, our project is in-line with that pool. We are a residential neighborhood in which family recreational activities runs rampant, we are following suit with the character of the neighborhood. Therefore, more (much more) likely than not, actual property values of the properties surrounding our property will not be affected at all, much less negatively, by allowing a setback variance so we may install a private pool within our privacy-fenced-in back yard for our family to enjoy.
- ⑤ Because of the special conditions of our property (namely long rectangle shape and way our house is situated side-ways on the lot), application of the ordinance provision to this property would not advance the purposes of the LDC provision requiring a 50' setback in any "fair and substantial" way. *St. Onge v. Concord*, 95 N.H. 306, 308 [1949]. No public good would result from the application of the rural setback requirement to our unusually shaped/situated property. Our house is on a long, narrow rectangle lot (made more so by the right of way to Langdon Place) and situated such that the back-yard (which we have fenced in) isn't parallel to the frontage; our backyard abuts the side-setback, not the traditional rear setback. There is an undevelopable field of 3 acres separating our lot's sideline (where the pool will be situated behind our house) and the directly abutting neighbor's house lot. No effect at all to public or even direct neighbors will be experienced and therefore the only argument to be made stands the potential harm to the full use and enjoyment of our property as it stands, which we purchased it in 2018. In balancing the two, scales certainly weigh in our favor, as it would serve no benefit at all to anyone, to deny or grant the variance, whereas it would cause great harm to our family if denied, creating an "unnecessary" hardship in the full use and enjoyment of our unusual property. The variance request is to make way for our building permit request to allow for an in ground swimming pool to be located in close proximity to the walkout portion of the house within the 6-ft.-privacy-fenced-in back yard, which as stated numerous times in this application, is a use in concert with the ordinance and our neighborhood. Therefore the proposed use is a reasonable one taking into account our surroundings and denial of a variance would create a substantial hardship to us and be of no benefit at all to the public.



Site Plan - Proposed Pool  
134 Arch Street





# 200 feet Abutters List Report

Keene, NH  
January 31, 2026

## Subject Property:

Parcel Number: 237-036-000  
CAMA Number: 237-036-000-000-000  
Property Address: 134 ARCH ST.

Mailing Address: NOYES SPENCER J. NOYES ASHLEY L.  
134 ARCH ST.  
KEENE, NH 03431

## Abutters:

Parcel Number: 107-042-000  
CAMA Number: 107-042-000-000-000  
Property Address: 11 BLACKBERRY LN.

Mailing Address: FULD FAMILY REV. TRUST  
11 BLACKBERRY LN.  
KEENE, NH 03431

Parcel Number: 107-052-000  
CAMA Number: 107-052-000-000-000  
Property Address: 137 ARCH ST.

Mailing Address: RAFAIL JOHN F. II RAFAIL BETHANY S.  
137 ARCH ST.  
KEENE, NH 03431

Parcel Number: 107-053-000  
CAMA Number: 107-053-000-000-000  
Property Address: 8 BLACKBERRY LN.

Mailing Address: LYNDE, LYLE S.E. JALBERT JADE V.  
8 BLACKBERRY LN.  
KEENE, NH 03431

Parcel Number: 107-054-000  
CAMA Number: 107-054-000-000-000  
Property Address: 129 ARCH ST.

Mailing Address: COMERFORD EDWARD B. COMERFORD  
MARY J.  
129 ARCH ST.  
KEENE, NH 03431

Parcel Number: 237-037-000  
CAMA Number: 237-037-000-000-000  
Property Address: 136 ARCH ST.

Mailing Address: LANGDON PLACE OF KEENE LTD  
PARTNERSHIP  
C/O COFORGE BPS 2727 LBJ FREEWAY  
#806  
DALLAS, TX 75234

Parcel Number: 237-038-000  
CAMA Number: 237-038-000-000-000  
Property Address: 138 ARCH ST.

Mailing Address: STOCKWELL RAY JR. STOCKWELL  
SALLY  
138 ARCH ST.  
KEENE, NH 03431

Parcel Number: 237-039-000  
CAMA Number: 237-039-000-000-000  
Property Address: 142 ARCH ST.

Mailing Address: HARTIGAN COLIN M. HARTIGAN  
ANALYN N.  
142 ARCH ST.  
KEENE, NH 03431-2186

Parcel Number: 561-014-000  
CAMA Number: 561-014-000-000-000  
Property Address: 132 ARCH ST.

Mailing Address: PEICHERT NICOLE JOHNSON GARY C.  
JR.  
132 ARCH ST.  
KEENE, NH 03431



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