

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 (Voting)

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, 2026 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

- A) 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.**

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

Mr. Clements stated that the subject parcel is an existing .026-acre 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. He continued that the property contains an existing single-family home with attached garage and driveway. The property is part of the Pine Banks Extension Subdivision from 1946, which is characterized as a traditionally mid-century suburban neighborhood. This application seeks a Variance from the 10-foot side yard setback requirement in the Low Density 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 feet into the side yard setback.

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

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

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

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

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

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

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

Ms. Brown stated that the Ordinance is to ensure orderly development, protect neighboring properties, and preserve the residential character of the neighborhood. She continued that the proposed serves as a typical residential use. It 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.*

Ms. Brown stated that 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. She continued that granting the Variance allows their family of six to use the property safely and fully, while denial would create an unnecessary hardship by restricting them to an undersized and outdated garage. The benefit to their family far outweighs any minimal or non-existent impact to the public. 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.*

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

Ms. Brown stated that the property has unique conditions that create a hardship. She continued that the existing single-bay garage does not reasonably meet the needs of a modern household, forcing them to rely 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 other homes in the area.

and

ii. The proposed use is a reasonable one.

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

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

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

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

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

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

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

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

Chair Clough agreed.

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

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

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

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

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

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

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

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

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

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.*

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

existing garage and an existing driveway maintains the curb appeal, and he thinks it is almost the only type of alignment that can be used.

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

and

ii. The proposed use is a reasonable one.

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

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

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

Mr. Guyot made a motion to approve ZBA-2026-01, for the Variance to allow approximately four-foot encroachment into the 10-foot 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 condition: foundation corners shall be pinned by a licensed surveyor and verified by a City Building Inspector prior to construction. Mr. Burke seconded the motion.

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

Met with a vote of 5-0.

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

Met with a vote of 5-0.

3. Granting the Variance would do substantial justice.

Met with a vote of 5-0.

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

Met with a vote of 5-0.

5. *Unnecessary Hardship*

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

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

Met with a vote of 5-0.

and

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

Met with a vote of 5-0.

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

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

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

Mr. Clements replied that the short answer is he does not have a problem with it. He continued that the specificity and clarity make a strong approval just as well as they make a strong denial. Every municipality does it a little bit differently. Keene's practice includes, in the final notice of decision, including the meeting minutes that include the deliberation. He and Mr. Buckley have briefly discussed adding findings of fact into the motion language. It cannot hurt, and might be a practice they want to adopt. This evening, they can do it, or put a pin in it and talk about it more next time. He briefly talked with the City Attorney about it, too, and she does not have any issue with it at first glance. It is up to the Board. Specificity cannot hurt an applicant, and makes a stronger decision of the Board. The statute Mr. Buckley was referring to was changed within the

last three years, so he does not know if there is any solid case law to point in the direction of what is a good practice versus a bad practice. What they are doing now, versus adding another motion or adding the findings of fact in the final motion language, is still a little up in the air, as far as he is aware.

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

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

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

V) New Business

VI) Staff Updates

VII) Communications and Miscellaneous

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

Mr. Clements replied that fundamentally, that is what the definition is saying – that it is the closest point of the building to the property line. He continued that in this case, it is the drip edge of the proposed addition. In this instance, this application was submitted with no warning. In most cases, the City knows an application is coming. In this case, he does not know how close to the deadline it was, but the application walked through the door, so when he reviewed it, his one question was where they were measuring it from. When he first reached out to the Applicant, they did not know. It took them some time to work with the builder and the architect, as the

Applicant explained, which is why they asked for the continuance in January, to be prepared for the answer to that question this evening.

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

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

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

Mr. Guyot replied that he agrees it cannot hurt, he just thinks they should formalize it. He thanked Mr. Clements for the information, and continued that he thinks the Board should have a final step, just prior to the final motion, laying out the findings of fact so they can then rely on them relative to the approval or denial. Mr. Clements agreed and stated that staff cannot pre-render findings of fact for the Board. Mr. Guyot agreed and continued that the Board needs to add the step into its process, right before the motion is made to approve or deny. Those

findings of fact will potentially affect how the motion is done. Mr. Clements replied yes, he imagines the motion about the findings of fact would occur at the end of the Board's deliberations. He continued that they can talk about it more, but for instance, the Board could deliberate on each of the Variance criteria and then go through the criteria again to articulate the findings of fact the Board agrees on, or they could articulate the findings of fact as they go through deliberations on the criteria. They do not need to figure it out right this second; they can talk about it more, talk with the City Attorney, and look at the Rules of Procedure. If they decide they want to adopt this practice, they might want to add it to the Rules of Procedure somewhere. Mr. Guyot replied that he agrees that once the Board decides what the methodology will be, it should be added to the Rules of Procedure.

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

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

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

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

VIII) Non-Public Session (if required)

IX) Adjournment

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

Respectfully submitted by,
Britta Reida, Minute Taker

Reviewed and edited by,
Corinne Marcou, Board Clerk