

City of Keene
New Hampshire

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES

Monday, March 2, 2026

6:30 PM

**Council Chambers,
City Hall**

Members Present:

Richard Clough, Chair
Edward Guyot, Vice Chair
Zach LeRoy
Adam Burke
Stephen Buckley, Alternate
Michael Zoll, Alternate

Staff Present:

Evan Clements, Planner, Zoning
Administrator

Members Not Present:

Tad Schrantz

I) Roll Call

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 Mr. Buckley to be a voting member for tonight's meeting.

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

Mr. Guyot made a motion to approve the meeting minutes of September 15, 2025. Mr. LeRoy seconded the motion, which passed by a vote of 4 to 0. Mr. Buckley abstained, since he was not a member at the time of the meeting.

Mr. Buckley made a motion to approve the meeting minutes of February 2, 2026. Mr. Guyot seconded the motion, which passed by unanimous vote.

III) Hearings

- A) 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.**

Chair Clough introduced ZBA-2026-02 and asked to hear from staff.

Evan Clements, Planner/Zoning Administrator, stated that the subject property is an existing two-acre lot on the southern side of Arch St., approximately 900 feet east of the intersection with Whitcomb's Mill Rd. He continued that the property contains an existing single-family home of about 2,600 square feet with an attached garage and associated site improvements. A detached ADU is currently under construction on the part of the property closer to Arch St. with associated site improvements including a driveway. The property is relatively flat, with the White Brook located along the southwestern corner of the property.

Mr. Clements continued that directly to the rear of the property on an adjacent parcel is Langdon Place, an assisted living facility. A 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 and connects Langdon Place to Arch St. The subject property has connected their driveway for the single-family home to this access drive in order to reach Arch St. The purpose of this application is to seek a Variance to allow for the construction of the 18' by 36' in-ground 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 residence. The residence is oriented to face the access drive with the fenced-in area being in the "backyard."

Mr. Clements continued that surrounding uses are the assisted living facility to the south, located in the Rural District, with single-family residential to the east and west, and the Low Density District located to the north on the other side of Arch St., also containing single-family residential as a predominant use. Additional information provided in the Staff Report includes the definitions for "building setback" and "side setback," the Purpose Statement for the Rural District, and the Dimensions and Siting table for the Rural District, including the 50-foot frontage and setback requirements, as well as the minimum lot area and the width at building line. Regarding the draft motion, at this time, staff is not recommending any conditions related to this application.

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

Spencer Noyes of 134 Arch St. stated that he and Ashley Noyes are looking to put in a pool in their backyard, 16' by 36', in ground, with a privacy fence so that it is not visible to anyone.

Chair Clough asked Mr. Noyes to go through the five criteria.

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

Mr. Noyes stated that the pool improves their lot, and he thinks the Board would agree, that only improves the values of the surrounding properties. He continued that the pool is not visible to anyone. It will be 15 to 20 feet off of their property line still. If they lived across the street, this would not be a problem. Their neighbors across the street, about two houses down, just put in an

in-ground pool. Because they live across the street, they did not have to deal with getting a Variance.

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

Mr. Noyes stated that aside from the setback deviation, the project is fully compliant and otherwise fully consistent with the spirit of the Land Development Code (LDC).

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

Mr. Noyes stated that the loss he and his family would suffer in the use and enjoyment of their property far exceeds any gain to the public.

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

Mr. Noyes stated that their family pool is in a residential neighborhood and cannot possibly diminish any surrounding property values, especially when it is not visible to anyone.

5. *Unnecessary Hardship*

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

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

and

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

Mr. Noyes stated that it is probably tough to say that it is an unnecessary hardship for him and his family to not be able to put in a pool, but they have four little girls, and his in-laws will be living next door in the ADU that is currently being built, so they have this nice little family compound they are trying to put together so they can enjoy the summers.

Mr. Buckley asked Mr. Noyes to explain the special conditions of the property as compared to other properties nearby. He continued that he sees that the property has a rather substantial vegetative screen from the rear, and it appears that there are other areas, not in the setback, where the Noyes could put their pool. He asked Mr. Noyes to explain why he feels their property has a special condition that dictates the pool be in this location within the setback.

Mr. Noyes replied that he thinks Mr. Buckley is referring to the vegetation on the southern line. He continued that the right-of-way they have that goes up to Langdon Place is like the Noyes' street. It should have a street name, because it is such a heavily traveled road. Their house faces

west, which faces that right-of-way. To his family, what the tax map calls their “backyard” is not their rear lot line; it is the abutting lot line to their neighbors. To his family, the front of the house faces the right-of-way, and the back of the house faces their neighbors’ property. It is not the rear lot line. The way the house is built, with the sliding glass door on the rear of the house, means that their fenced-in area on the rear of the house is not what the *tax map* calls the rear of the property, but to his family it is the rear of the house and it is where they spend their time. As you get closer to the river, and the vegetation, you are not getting the sunlight. In his opinion, it is the right-of-way that makes the pool’s location seem like the correct place.

Mr. Buckley asked if it is correct that Mr. Noyes is saying that the way the house is oriented, and the sliding glass door that one would normally use to exit from the rear of the house to a patio and then perhaps to a pool, means that this is the special condition the Noyes have, and that is due to how Langdon Place was oriented and how the Noyes’ house was built. Mr. Noyes replied yes, that is correct.

Chair Clough stated that the southern end has the waterway. He asked if it is correct that although the Board is seeing vegetation, there is actually wetland or a waterway that cuts across the Noyes’ property. Mr. Noyes replied yes, it is a river. Chair Clough asked if it is accurate that the Noyes could not put their pool in the southerly area because they would be in the waterway. Mr. Noyes replied that they would be closer to the waterway, and the pool would be in a floodplain. He continued that he does not know if there are regulations against having a pool too close to a natural water source, but his family stays away from that side of the house due to fear of their children falling in the river. There are no doors on that side of the house. The only time he remembers that side of the house exists is when he has to mow it.

Mr. Buckley stated that on the handwritten drawing Mr. Noyes provided to the Board, it appears that there is plenty of space to put a pool on the southern part, but the area is compromised either by slope or wetlands. He asked if that would be a fair statement. Mr. Noyes replied yes.

Mr. Burke asked when the right-of-way was granted, relative to the Noyes’ property. Mr. Noyes replied that his family bought the house in 2018. He continued that the right-of-way was put in when Langdon Place was built, which he thinks was in the late 1990s. The house was built in 1988, and then the right-of-way was granted to Langdon Place whenever Langdon Place was built. Thus, he and his family unfortunately inherited the right-of-way. Mr. Buckley asked if it is correct that the Noyes did not grant the right-of-way to the Langdon Place developer. Mr. Noyes replied no, they did not.

Chair Clough asked if the Board had further questions for the Petitioner. Hearing none, he asked if any members of the public were opposed to the application. Hearing none, he asked if any members of the public support the application. He continued that for the record; he sees five members of the public who have their hands raised to indicate their support and he believes they are related to the Applicant. Hearing no public comment, Chair Clough closed the public hearing and asked the Board to deliberate.

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

Mr. Buckley stated that he agrees that granting the Variance would not be contrary to the public interest. He continued that there is no inherent flaw or impact to the general purposes of the Ordinance that would dictate that this is contrary to the public interest. Chair Clough stated that he agrees.

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

Mr. Guyot stated that he believes the spirit of the Ordinance would be observed, for the same reasons as it meets the first criterion.

Mr. Buckley stated that the setbacks are designed to ensure that the density of the particular areas are not compromised. He continued that he does not see how an in-ground pool could affect the appearance of the density of the area, so it is hard to find that it would be anything other than meeting the spirit of the Ordinance.

Chair Clough replied yes, especially since a fence is already there. He continued that there would have to be a huge waterslide or something like that to make that unusual.

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

Mr. Buckley stated that this is a benefit and burden analysis the courts have suggested boards use. He continued that if the burden on the applicant is greater than the benefit to the public, consequently you find in favor of the applicant. In this instance, the substantial justice would be done to the applicant.

Chair Clough stated that he agrees.

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

Chair Clough stated that he agrees with this criterion; it is straightforward.

Mr. Guyot stated that he agrees.

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 the Board asked some questions to determine the placement of the building, the alignment of the building, and the suitability of where a pool could be put. He continued that to him, that goes into the special conditions. It speaks to why the pool would be situated there.

Mr. Buckley stated that he would emphasize that the Harborside case dictates that the special conditions can arise from the property itself, and that is really a function of how this house was built in relation to the right-of-way and the fact that when you take into account that this is an in-ground pool. He continued that it will not have any impact. Setbacks make sure you do not impinge upon the density of the rural area. He thinks Mr. Noyes has demonstrated there are special conditions that satisfy this prong of the hardship test.

and

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

Chair Clough stated that the Board affirms that the use is reasonable.

Mr. LeRoy made a motion for the Zoning Board of Adjustment to approve ZBA-2026-02 to allow for the construction of an 18' by 36' in-ground 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.

Mr. Buckley stated that he has a clarifying question. He asked if it is correct that the pool would be built within an existing, fenced-in enclosure. In response to an off-camera, inaudible reply, Mr. Buckley replied that he hears that it is already there.

Mr. Buckley 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-2026-02 passed by unanimous vote.

Chair Clough stated that last month, the Board discussed whether they would make a motion about their findings of fact for something like this. He continued that that has not been set in stone. He asked if the Board wants to do it this time, or if they feel they have covered the bases enough. Mr. Buckley replied that there had been discussion about seeking guidance from the City Attorney. Mr. Clements replied that that conversation is still ongoing. He continued that it is up to the Board, whether they want to really solidify the findings of fact, which could not hurt.

Mr. Buckley made a motion that the Zoning Board of Adjustment find as a fact that there are special conditions that affect this property, given the orientation of the house in relation to Langdon Place, and the probability that building the pool in the southern part of the property would be compromised either by slope or wetlands, and that the proposed location and the configuration of the house demonstrate that there is sufficient hardship to justify granting the Variance. Mr. Burke seconded the motion, which passed by unanimous vote.

IV) Staff Updates

Mr. Clements stated that he has no new business, but he apologizes for not having gotten a definitive answer from the City Attorney about the findings of fact issue. He continued that they would keep working on it, and as soon as they have something, he will bring it to the Board.

V) New Business

Chair Clough asked if anyone had any new business.

VI) Adjournment

There being no further business, Chair Clough adjourned the meeting at 6:56 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Reviewed and edited by,
Corinne Chaisson, Board Clerk