



CITY OF CONCORD
New Hampshire's Main Street™
Zoning Board of Adjustment

July 2, 2025
MEETING MINUTES

Attendees: Chair Christopher Carley, Member James Monahan, Member Laura Spector-Morgan, Member Nicholas Wallner, and Alternate Member Brenda Perkins

Absent: Alternate Mark Davie and Member Andrew Winters

Staff: AnneMarie Skinner, AICP, City Planner
Kearsten O'Brien, Senior Planner

1. Call to order

Chair Carley called the meeting to order at 6:02 p.m.

2. Chairperson's comments

3. Public meetings

4. Public hearings

- 4.1 Eric Skinner, on behalf of Walmart Real Estate Business Trust, requests approval for a variance from Section 28-2-4-(k)(B)(7) *Table of Accessory Uses – Accessory to a Principal Nonresidential Use*, to allow outside storage of materials and inventory where such outside storage is not otherwise allowed, at Tax Map Lot 46Z 56, addressed as 344 Loudon Rd, in the Gateway Performance (GWP) District. Not a development of regional impact. (ZBA 0292-2025)

Eric Skinner spoke on behalf of Walmart Super Center. Mr. Skinner said that Walmart is one of their clients for snow removal. Mr. Skinner said they are seeking to retain a variance for a salt enclosure storage area that has been done by others such as Dicks and Harbor Freight. Mr. Skinner stated that the level of on-site material that these types of properties consume requires on-site materials to keep the safety of the customers and the people around it. Mr. Skinner said they did construct the storage bin that is currently there and were not aware it was not allowed. The storage enclosure is in the upper overflow parking in an area that is not used very much. It is the safest place for them for when they are loading and unloading materials. They have loaders, trucks, and other equipment that they would like to keep away from the general public. It would be ideal to keep the location of the storage enclosure. When speaking with the general manager of Walmart, Mr. Skinner found out it helps having the enclosure there because it mitigates the unwanted use of the area like stagnant vehicles or campers. Mr. Skinner said that Walmart did want him to bring up that they maintain the cut-through that is owned by Walmart and many people who are not Walmart customers but use it as a way to get from Loudon Rd to Sheep Davis or vice versa. That road is frequently used in such a way and that is why they need to make sure their product is kept at the

site to keep up with the maintenance of not only the parking lot but the cut-through that is actively used by the public.

Chair Carley stated that staff made a comment regarding relocating the storage shed and asked Mr. Skinner's thoughts on that. Mr. Skinner said in speaking with the general manager of Walmart it would not be ideal to move the storage enclosure because it would be overreaching the theme of providing safety because it would put the salt bin storage closer to shoppers and store employees. It would also impede the to-go pickup orders. Mr. Skinner stated that out of an overabundance of caution that is why they are requesting to be so far away from that side area and keep it where it is currently located. Mr. Skinner noted they like to keep it clean, professional, and safe, and further that they abide by State best practices over and above.

Member Spector-Morgan stated that the appellant describes it as a temporary structure in the application and would like clarification. Mr. Skinner said that they are seeking the variance to have the structure remain permanently. Member Spector-Morgan asked the appellant to explain the special conditions of the property pertaining to the use variance. Mr. Skinner said that the volume of the area that they are having to handle in order to service the facility correctly, safely, and responsibly means having the material at the site to provide a faster response time. It is important to have the materials on the site in the case of a flash freeze because the response time needs to be faster. They are also managing a road that is not a public road but is used frequently by the general public.

Member Monahan asked if the appellant was storing vehicles there as well. Mr. Skinner stated that they typically store a front-end loader, skid steer, or bobcat. Mr. Skinner said they are not in the storage enclosure, but are along the storage area. They are used on a weekly or as-needed basis during the season.

No public comment or comment from staff.

Chair Carley closed the public hearing at 6:16 p.m.

Alternate Member Perkins said that she does not see an issue with the proposal. The preference would be to move it the back or side of the building but knowing the land she can understand why it would be a safety concern. Alternate Member Perkins said it would be difficult to get in and out with bigger trucks if the location was moved.

Member Spector-Morgan stated it would not diminish the essential character of the neighborhood and would not diminish property values and that the explanation of a hardship was good enough.

Member Monahan stated that he can see by a safety standpoint as to why you wouldn't want delivery of salt or large equipment around people. Member Monahan said there is a uniqueness to this case because there is a quasi-public road that increases traffic and it is more sizeable than most parking lots.

Member Wallner said he agrees with his colleagues and has nothing to add.

Chair Carley said he, too, agrees with his colleagues and has nothing to add.

Motion made by Alternate Member Perkins, seconded by Member Monahan. With a vote of 5 in favor (Carley, Monahan, Perkins, Spector-Morgan, Wallner) to 0 opposed, the Board granted the variance from Section 28-2-4-(k)(B)(7) *Table of Accessory Uses – Accessory to a Principal Nonresidential Use*, to allow outside storage of materials and inventory where such outside storage is not otherwise allowed at the address of 344 Loudon Rd, because all of the criteria under RSA 674:33 have been met based on the record before the Board, and the Board adopted the applicant's

findings as the Board's findings of fact.

Adopted Findings of Fact:

1. The variance will not be contrary to the public interest. "(1) The salt bin being kept on the property would be consistent of the neighborhood. Walmart is currently in the GWP- Gateway Performance District. The GWP- Gateway Performance District includes a number of commercial properties that are similar to Walmart in regards to property size and use. Some of these commercial properties are currently under construction or have temporary structures located on the property. Particularly the Steeplegate Mall. Aesthetically, the salt bins will not be an encumbrance or something that is out of the ordinary to see within the neighborhood. (2) The salt bin is currently located within an overflow parking area within the parking lot of Walmart (see map). In no way does it impede on vehicle traffic or pedestrian traffic. Additionally, the parking spaces that the salt bins are taking up are seldom used for store purposes. (3) The salt bin will not create public safety concern. The concrete blocks that create the bins can only be moved by heavy equipment. Additionally, they are stacked a top one another, and the blocks used are manufactured with a lock and key system, allowing each block to lock into one another. Salt bins are commonly used and are constructed safely by professionals. Additionally, as stated in 1. (2) there is little to no pedestrian traffic at the salt bin as it is located in an overflow parking area of Walmart, away from the street sidewalk and away from the store walkway(s). Vehicular sight paths have not been obstructed as the bin is not located within or near any intersection within the parking lot or the public road. (4) Allows for a more efficient preparation for winter time as the salt bins will already be on site and will only need to be filled this creates for a safer environment for the property as a whole, by increasing winter response time. Additionally, it keeps the risk of damage from take down and set up to a minimum by storing the bin on site."
2. The spirit of the ordinance is observed by granting the variance. "(1) The salt bin fits within the essential character of the GWP- Gateway Performance District. The GWP- Gateway Performance District includes a number of commercial properties that have temporary structures within their lot area. This can be seen throughout the GWP-Gateway Performance District. So the temporary salt bin structure will fit within the neighborhood because examples of this are seen throughout the GWP-Gateway Performance District. (2) The salt bin will not impact abutters or the public negatively. This is no adverse effect to vehicular traffic or pedestrian traffic from the salt bin location. Storage the salt bins in their current location, is in the parking lot, additionally it is in a low traffic area of the parking lot. Neighboring properties will not be affected because there is no obstruction to any of the abutters. The salt bin is confined to the property and does not be affected because there is no obstruction to any of the abutters. (3) The salt bin will not create any harm to the public. Having the salt bins stored on site will create a safer situation for people using the property due to having a faster response time for the first winter storms or unexpected storms. There will be no effect to the wellbeing of the public at all. (4) The storage bin has been constructed beyond State standard and/or best practice. This area will improve the overall current conditions of the area as it safely and cleanly contains necessary materials for the safe operations and travel for not only the Walmart clients but also travelers frequently utilizing the "cut through" road between Loudon Rd and Sheep Davis Rd."
3. Substantial justice will be done by granting the variance. "(1) The salt bin storage is consistent with the area's present use because temporary structures are seen throughout the GWP- Gateway Performance District. The use of the Walmart or the area will stay consistent to its current use and the salt bins will have no effect of the current use and will not change the current use. The salt bins are located in and will remain in an area that does not experience traffic within the property and will not impede on traffic of any kind within public ways. (2) The salt bin would be beneficial to the applicant because it would reduce resources needed for mobilization if the salt bin were able to be left there. Heavy Machinery and hand labor would be needed to remove the salt bins seasonally which is an unnecessary burden. Additionally, the salt bins have typically been stored on site."

Scheduling in cost and efficiency are all factors that affect the applicant where the public will not experience a negative impact.”

4. The values of surrounding properties will not be diminished. “(1) The salt bin will maintain adequate buffer between the applicant and abutters. The salt bin is not located within any property set back or on any abutting property line (2) The salt bin will maintain the use of the property and will be consistent with the other properties within the GWP - Gateway Performance District. Temporary structures that do not obstruct or negatively impact the public are seen throughout the GWP - Gateway Performance District. (3 & 4) The salt bin will not interfere with the use of the surrounding properties. The salt bins have been located within the same location annually and there have been no changes to the surrounding properties caused by the salt bins.”
5. Denial of the variance would result in unnecessary hardship because: “The shear [sic] size of the parking lot as well as the “cut through” road that is privately maintained but used by the general public. Denial of the variance would result in unnecessary hardship because if denied, there would be additional burdens to the applicant to maintain the publicly used “cut through” road as well as the p is consistent with what is seen on other properties within the GWP - Gateway Performance District. parking lot. This is a reasonable variance because there has been no issue to the public and is consistent with what is seen on other properties within the GWP - Gateway Performance District.”
- 4.2 Herbert & Dolder, PLLC, on behalf of Bradley J. Gaudreau Revocable Trust, requests approval for a variance from Section 28-4-1(e) *Maximum Lot Coverage*/(h) *Table of Dimensional Regulations*, to allow maximum lot coverage of 15% rather than the 10% required maximum, for the construction of a garage addition, at Tax Map Lot 51Z 12, addressed as 50 Lakeview Dr, in the Open Space Residential (RO) District. Not a development of regional impact. (ZBA 0293-2025)

Ms. Dolder stated that the property is within the RO district and has 5.94 acres of land. The majority of the property is undisturbed woodlands. The parcel currently contains a single-family residence, a garage, pool house, and a swimming pool. All of those items were constructed pursuant to building permits obtained from the City of Concord. Right now, the applicant is proposing to construct a 32 x32 addition onto the existing garage/pool house. Ms. Dolder stated that even though the applicant did build a garage/pool house in 2019, he has since run out of space. Ms. Dolder state that the applicant does own a skid steer, an excavator, and lawn mower that he would like to store in the additional space. Ms. Dolder stated the applicant has removed a portion of the impervious that exists and to place the addition to the garage. Even though they are asking for 1,900 square feet give or take, the applicant has already removed 1,000 square feet of impervious and they will net 964 square feet of additional impervious surface. Ms. Dolder stated that the driveway exceeds the impervious surface coverage to begin with and all of the building that is on the lot had permission from the city. Ms. Dolder stated that Mr. Gaudreau is here today because he pulled a building permit and staff noticed that he was over the impervious and that it would require a variance to move forward with the project. Ms. Dolder said the use is permitted and it is in a residential district and is only impacted because the property is in the RO zone and lot coverage is only 10% in the zone. Every other zoning district the city has allows between 20% to 60% lot coverage. This is the only district where the lot coverage is 10%.

Ms. Dolder said that there is a shared driveway on the property. The applicant’s neighbor at one point in time indicated that they would be relocating the driveway and would be removing the shared driveway. When that was discussed, the applicant had to install their own driveway. The uniqueness of the land and its steepness is the reason the driveway is so long. The driveway was discussed with the Fire Department and due to the nature of the driveway, the Fire Department wanted the applicant to keep the shared driveway for safety reasons. That is why there is still the impervious surface there. Ms. Dolder stated that she wanted to point out to the Zoning Board that the Zoning Ordinance has two different definitions for lot coverage. The glossary defines lot

coverage as: “The area of a lot covered by the aggregate of the maximum horizontal cross section area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, bay windows, balconies and terraces.” Ms. Dolder stated that when she first saw the definition it was clear the applicant wouldn’t need the variance due to the definition, but then she saw Section 28-4-1(e), which states the following: “No buildings, structures, or ***impervious surfaces or combination thereof*** (emphasis and bold added) shall be constructed on a lot such that the area of the lot covered by buildings, structures, and impervious surfaces when calculated as a percentage of the total lot area, shall exceed the percentage as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance. Solar collection systems shall be exempt from the lot coverage standards as defined in this Section but subject to Solar Land Coverage requirements as defined in Section 28-5-53. Buildings for building mount solar collection systems or those constructed to house equipment shall not be excluded from the maximum lot coverage calculation.” Ms. Dolder stated that they are asking to not exceed 15% lot coverage to allow for the garage addition.

Member Monahan asked if there was a grade to the property. Ms. Dolder stated the driveway is uphill and has curves.

Alternate Member Perkins asked if you could see the home from the road. Mr. Gaudreau said you cannot, you can only see the roof.

Ms. Dolder continued by going through the five criteria.

Member Monahan asked what the lot coverage was without the addition. Ms. Dolder stated that the 10% would allow 25,874, and the driveway is 28,000 and the structures are 5,000. The new structure is 1,924, and he removed 1,000 square feet of impervious.

Chair Carley stated the record will show that there was no one present to speak in favor or in opposition on the request.

Ms. Skinner stated that when the property was subdivided there is a condition on the plat that prohibits the use of the shared driveway and that the applicant needed to install a new driveway for the property and that the Fire Department wants him to keep the shared driveway.

Chair Carley closed the public hearing at 6:35 p.m.

Member Wallner stated there are so many grounds for a hardship. Member Wallner stated that they cannot remove the driveway to be more conforming and the size of the lot versus the coverage percent is another hardship.

Member Monahan said that this is a unique property and that is why the Zoning Board of Adjustment exists.

Member Spector-Morgan and Alternate Member Perkins agreed.

Motion made by Member Spector-Morgan, seconded by Alternate Member Perkins. With a vote of 5 in favor (Carley, Monahan, Perkins, Spector-Morgan, Wallner) to 0 opposed, the Board granted the variance from Section 28-4-1(e) *Maximum Lot Coverage*/(h) *Table of Dimensional Regulations*, to allow maximum lot coverage of 15% rather than the 10% required maximum, for the construction of a garage addition at 50 Lakeview Dr, because all of the criteria under RSA 674:33 have been met based on the record before the Board, and the Board adopted the applicant’s findings as the Board’s findings of fact.

Adopted Findings of Fact:

1. The variance will not be contrary to the public interest. “Granting the variance would not be contrary to the public interest because: To be contrary to the public interest, the variance must unduly, and in a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives. To ascertain whether granting the variance would violate basic zoning objectives you must examine whether it would alter the essential characteristics of the neighborhood or would threaten the public health, safety or welfare of the public. The Applicant’s requested variance does neither. As stated above, the ultimate use being proposed is permitted under the Zoning Ordinance by right. It is only the fact that the Property has such a long driveway to access the residence and that the term “lot coverage” is defined two different ways in the Zoning Ordinance which triggers the variance relief. Clearly, the Applicant meets the definition of lot coverage as it pertains to the buildings and structures, even with the construction of the Addition, and it is only the impervious which cause the Applicant to exceed the requirements. The use being proposed is consistent with the general area and the intent of the Zoning Ordinance. Given this, such a use will not alter the essential characteristics of the neighborhood, but instead will continue to be in keeping with the established neighborhood and will be consistent with the general area itself. The Applicant’s proposal certainly will not create any safety hazards to the public. In fact, the Property is located in a remote part of the western end of the City. When the Applicant obtained the driveway permit from the City, he was required to meet all driveway regulations, including addressing stormwater on the site and any potential runoff from the impervious area. Given the location of the Addition, combined with the fact that the area was impervious until recently, without any issue, there is no reason to believe that the Addition will cause any safety hazard to the neighborhood or the general public.”
2. The spirit of the ordinance is observed by granting the variance. “If the variance were granted, the spirit of the Ordinance would be observed because: Once again, the Property is located in the RO District and the use being requested is permitted by right. The Property greatly exceeds the current lot size requirements of 2 acres and the Applicant will meet all of the setbacks required within the zoning district. In fact, even with the requested variance relief, the Addition as proposed will be consistent in design and location with the existing structures and the general neighborhood. There shall be no noticeable difference to the area nor any reasonable rationale to prohibit the Applicant from constructing an Addition on the Property to house equipment and vehicles. The RO District is established to accommodate single-family detached dwellings and cluster developments at densities not exceeding one-half (1/2) of a dwelling unit per acre, and single-family detached dwellings with one accessory dwelling unit (ADU) at densities no greater than one dwelling unit per acre. This proposal is certainly not in conflict with that stated purpose. Similarly, the general purpose of imposing lot coverage limitations is to make sure that a property is appropriately used and doesn’t cause any issue with overcrowding or other related matters. Once again, the Addition doesn’t conflict with this general purpose. Given that the majority of the Property is wooded, the Applicant has properly addressed and contained all stormwater on the Property in constructing the driveway and other improvements and the location of the Addition was previously impervious, it is not contrary to the spirit and intent of the Ordinance to permit this proposal. Accordingly, the variance relief being requested is not contrary to the spirit and intent of the Zoning Ordinance, but instead, will allow the Property to be utilized in a manner consistent with the permitted and already established uses in the District and the neighborhood itself.”
3. Substantial justice will be done by granting the variance. “Granting the variance would do substantial justice because: One of the guiding rules in evaluating substantial justice is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. Under this standard, the Applicant clearly satisfies this requirement. If the City were to deny the Applicant’s request to construct the Addition to his existing garage in order to store his equipment and vehicles, on a lot that is 5.94 acres in size, this would result in a tremendous loss to the Applicant without any justified gain to the public. Substantial justice is also achieved by granting variances which do not adversely impact on nearby property owners and which allow a

property to be used reasonably. As stated above, even with the requested relief, the difference between that required under the Ordinance and that provided shall not create any adverse effect on the adjoining neighborhood. As previously stated, the Property will continue to be used as a single-family home, which is consistent with both the Zoning Ordinance and the general area. As a result, there will be no adverse impact to the neighboring property, but instead, will allow the Applicant to utilize the Property in a reasonable, consistent manner, resulting in substantial justice.”

4. The values of surrounding properties will not be diminished. “If the variance were granted, the values of the surrounding properties would not be diminished because: As previously stated, the Property is located within the RO District and the use being proposed is permitted by right. As the Property exists today, the structures are barely visible by the abutting neighbors or from the road due to the established vegetative buffer that encompasses a large part of the parcel and the location of the structures on the lot. This shall not change since the Addition will be attached to the existing garage and will be located over 300 feet away from the closest neighbor. The Applicant shall continue to meet all of the setback requirements of the Zoning Ordinance and when constructed, will be aesthetically attractive and will fit into the character of the existing structures. In addition, the Applicant already removed some of the existing impervious area to make room for the Addition. The Addition onto the current garage will result in an increase in value to not only the Property itself, but will positively impact the abutting properties. As a result, there shall not be any diminishment of the surrounding property values, but will allow the Applicant to utilize the Property in a reasonable manner.
5. Denial of the variance would result in unnecessary hardship because: “The Property is located within a remote part of the City, within the RO District. The use of the Property is permitted by right and consistent with the area and its neighborhood. Even though the Applicant’s lot is much larger than required and certainly larger than other residential districts, its location within the RO District restricts the lot coverage that is permitted. As stated above, the allowable lot coverage in this District is the lowest permitted within any of the residential zones. With that said, even with the relief requested, the lot coverage on the Property will still be less than what is permitted in all other residential areas in the City. The Property itself is certainly unique due to its natural topography and the location of the current structures, all of which were constructed per building permits issued by the City and existing impervious areas. It is important to note that the Applicant did also receive a driveway permit from the City prior to constructing it on the lot. As previously stated, one of the most unique characteristics about this Property is that the structures only make up a minimal part of the lot coverage and it is only due to the fact that the driveway is 700 feet long that the Applicant requires the variance. The Addition itself shall truly only result in a net increase of about 924 square feet since the Applicant has removed 1,000 square feet of impervious to prepare for its construction. Given the large size of the lot, the distance of the structures from the abutters and roadway, the Addition shall not overburden the Property nor shall it cause any other negative impact that the Zoning Ordinance is looking to prevent. One further unique aspect of this Property is that it not only consists of a large amount of wooded area, but it is also surrounded by hundreds of acres of conservation lands. Since the Addition will not encroach on any of the setbacks required under the Zoning Ordinance, but will be constructed onto the existing garage, in an area that has already been disturbed, it shall not adversely impact the neighborhood or surrounding properties, nor will it alter the essential characteristics of the neighborhood or the Property itself. Instead, it will allow the Property to continue to be used for and in the same spirit as is expressed in the Zoning Ordinance and as is already established, with no adverse impact on the environment or the general area. Accordingly, there is no fair and substantial relationship between the general purposes of the Zoning Ordinance and the specific restrictions on the Property. The use shall remain residential, which is permitted by right under the terms of the Zoning Ordinance. It is not unreasonable for the Applicant to want to store his equipment within a structure and the request for the Addition will accomplish this. Given that he this is such a large parcel and the structures only make up a small part of it, this is certainly a

reasonable use of the Property.”

5. **Review and acceptance of minutes from June 4, 2025**

Member Monahan moved, seconded by Alternate Member Perkins, to approve the meeting minutes from June 4, 2025, as amended. The Board voted 3 in favor (Carley, Monahan, and Perkins) to 0 opposed and 2 abstentions. The motion passed unanimously.

6. **Any other business that may legally come before the Zoning Board**

7. **Adjourn**

On a motion made by Member Wallner, seconded by Member Spector-Morgan, the Board unanimously voted 5 in favor (Carley, Monahan, Spector-Morgan, Wallner and Perkins) to 0 opposed to adjourn at 6:40 p.m.

Respectfully submitted,

Kearsten O'Brien

Kearsten O'Brien
Senior Planner