



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

September 3, 2025
MEETING MINUTES

Attendees: Member Nicholas Wallner, Member Andrew Winters, and Member James Monahan

Absent: Chair Christopher Carley, Alternate Member Mark Davie, Member Laura Spector-Morgan, and Alternate Member Brenda Perkins

Staff: AnneMarie Skinner, AICP, City Planner
Stephanie N. Verdile, Assistant City Planner - Zoning
Krista Tremblay, Administrative Technician III

1. Call to order

Acting Chair Wallner called the meeting to order at 6:00 p.m.

2. Chairperson's comments

Acting Chair Wallner noted for the record that tonight is a three-member Board where there is usually a five-member Board. Acting Chair Wallner offered for any applicant that wishes to be heard before a full Board to continue to a subsequent meeting. For those wanting to continue with a three-member Board, that does not create grounds for a rehearing. It does mean the vote, in favor or against, from the Board has to be unanimous. No applicants chose to continue, and Acting Chair Wallner noted for the record that every applicant is content to be heard by a three-member Board.

3. Public meetings

4. Public hearings

- 4.1 **(continued from August 6, 2025)** Walter Dratner requests approval for a variance from Section 28-4-1(d)(1) *Minimum Front Yard Requirements*/(h) *Table of Dimensional Regulations*, to permit zero setback where a 10-foot front setback is otherwise required along the front property lines (Village St and Lilac St) for the addition of decks on an existing building, at Tax Map Lot 1431P 58, addressed as 181 Village St, in the Downtown Residential (RD) District. Not a development of regional impact. (ZBA 0296-2025)

Acting Chair Wallner read agenda items 4.1, 4.2, and 4.3 into the record at the same time to be discussed as one.

Walter Dratner (181 Village St, Concord) is present to represent this application.

Acting Chair Wallner notified Mr. Dratner that his case was open and they did take testimony from abutters at last month's meeting. Acting Chair Wallner stated they will proceed with Mr. Dratner's testimony.

Mr. Dratner purchased 181 Village St because the building has historic value and there is a tremendous amount of work to restore the building. Mr. Dratner stated the roof work and some outside work is completed. Mr. Dratner noted they are waiting on permits to be able to continue. Mr. Dratner noted there are two ways to continue. One is if the variance is approved to convert the building to a three-family building and other is to go back to storage.

Acting Chair Wallner asked Mr. Dratner to explain why they need a variance and how they meet the criteria for needing a variance.

Mr. Dratner stated parking is one problem as there is not enough.

Member Winters stated one of the criteria is there any other reasonable use for the property and Mr. Dratner is saying there is for storage.

Mr. Dratner stated the building inspector thinks they should go with the apartment. Mr. Dratner noted there is need for housing in this area.

Ms. Skinner stated the site is zoned downtown residential. Storage is not an allowed use. The only uses permitted by right in the downtown residential zone are residential. He would not be able to go back to storage as it was before because he has lost any nonconforming status because it has been out of use for too long. Ms. Skinner noted he would require a variance for storage use. Ms. Skinner noted no matter what use Mr. Dratner proposes parking is required and parking cannot back out into the street for any use other than a house or a duplex. Ms. Skinner stated maneuvering for parking has to take place on the site.

Member Winters asked even though there was a fire with the building.

Ms. Skinner stated it has been too long.

Member Winters asked when do you lose your existing use status.

Mr. Dratner stated they could build parking for four cars.

Member Winters asked if there was no parking how much is that going to be a burden on the neighborhood with residents and guests parking in the street.

Mr. Dratner stated on the back of the property it is 140 feet or so and on the other street there is six to eight feet that can park cars along the whole length without interfering with neighbors.

Ms. Skinner stated that is public right-of-way and anyone can park there at any time provided there are no official posting against it.

Member Winters asked if there is anyone else that has a reason to park there.

Mr. Dratner stated everyone has their own parking and no one parks on that side of the street.

Acting Chair Wallner stated last month there was an abutter that lives on Lilac St that had concerns about if there are cars parked on Lilac St it would affect the ability to get out of their driveway.

Mr. Dratner stated they will not affect the neighbor in any way.

Acting Chair Wallner asked about the lot abutting his property.

Mr. Dratner does not know.

Acting Chair Wallner asked how many cars he is looking to park in the point.

Mr. Dratner stated four cars and in another location another four or five cars.

Member Winters stated he is looking at the minutes from last month and the people that testified were 1 St Catherine St. Their concerns were accessibility for the people that reside at 20, 22, and 24.

Member Winters asked if Mr. Dratner is building a parking lot because the request is for zero parking spaces and asked if modifying that.

Mr. Dratner stated they will build it and not at the present time.

Member Winters asked when they do build it how many parking spaces will you put there.

Mr. Dratner answered four parking spaces.

Ms. Skinner stated one parking space has to be 19 feet long and 9 feet wide. It measures approximately from the edge of the building to the property line about 37 feet. Ms. Skinner noted it has to be two-way traffic which requires a 24-foot-wide drive aisle. If you take 24 plus 19 that comes to 43. There is not 43 feet here. There is not enough room for a parking lot. Ms. Skinner stated Mr. Dratner needs to get a design professional. Ms. Skinner stated the requirement for a triplex is one parking space per unit per the new law.

Member Monahan noted this is a work in progress and does not feel the Board will have enough information tonight to give an answer especially around the parking because the material was not included. Member Monahan wants to avoid rushing to an answer when the Board does not have all of the information. Member Monahan stated the conversation taking place right now with Mr. Dratner needs to happen with staff outside of the meeting.

Member Winter and Acting Chair Wallner agreed with Member Monahan.

Member Monahan asked if the Board should table this until November so there is time for the applicant to work out the proper details to bring to the Board.

Ms. Skinner stated Mr. Dratner would need to request a continuance because state law mandates there is a time frame for the decision. Ms. Skinner noted if Mr. Dratner requests a continuance to a date certain the Board can do that.

Acting Chair Wallner asked if they can table the parking and provide response to the other two applications.

Ms. Skinner responded yes.

Member Monahan wanted to see the whole package.

Ms. Skinner stated the other two issues have nothing to do with parking. They are setbacks for decks.

Member Winters agrees and wants to allow anyone to testify to do so.

Acting Chair Wallner asked if there is anything else Mr. Dratner would like the Board to know.

Mr. Dratner responded no.

Acting Chair Wallner asked if there is any member of the audience that would like to speak in favor of this application, with no response. Acting Chair Wallner asked if there is anyone that wishes to speak in opposition to the application.

Chris Stephen (1 St Catherine St, Concord) stated he was present at the meeting last month. Mr. Stephen noted at that meeting he was speaking to the fact that people in 20, 22, and 24 are already parking in the street which makes hard for Mr. Stephen to see and get out. Mr. Stephen showed his driveway which has an incline and if there are vehicles parked along here it will be difficult for him to get in and out. With the cars parked along the street on both sides it turns it into a one-way street. Mr. Stephen does not know how they will go from there to Lilac St because there is a deck in the way.

Member Winters asked about the density and his concern about the overflow parking on the street.

Mr. Stephen responded very much so and as a three-unit apartment he does not see any space for outdoor storage, trash, or any of that. Mr. Stephen stressed his biggest concern is the parking.

Acting Chair Wallner offered rebuttal to Mr. Dratner.

Mr. Dratner stated what he said is true because they were going to go to storage and did not want to get into a three family. Mr. Dratner noted the house Mr. Stephen is talking about and there are many cars parked. Mr. Dratner noted the neighbors park on the street every day.

Member Winters asked if he was going to build storage would he still need the same setback and density requirements.

Ms. Skinner stated the lot coverage will come into play no matter what he does. Ms. Skinner noted the setback variance only comes into play for the decks.

Member Winters asked if the primary structure is not in the setbacks.

Ms. Skinner answered it can remain as nonconforming; however, you cannot expand the nonconformity. Adding the decks is expanding the nonconformity. If the setback variance is not approved, the decks will have to be removed. Ms. Skinner stated if Mr. Dratner wants to do anything other than residential that will require a use variance.

Acting Chair Wallner closed the public hearing.

Member Monahan stated he cannot find his way to yes on this because they have received information tonight that staff has not reviewed. Member Monahan noted on the other two it strikes him as a work in progress and he would rather be responsive to a more specific plan that the applicant brings in. Member Monahan appreciates this is a very unique piece of property that you can make hardship cases for. However, that is not in front of the Board. Member Monahan is asking the applicant to come back with a more complete application.

Acting Chair Wallner asked if Member Monahan is referring to all three cases.

Member Monahan answered yes.

Member Winters thought the first two were more clear and when the recent information presented about

the deck is what is causing the setback issue and might be contributing to the lot coverage issue. Member Winters noted this lot deserves some type of relief for something because it is difficult to comply otherwise. Member Winters stated with respect to the neighbor there may be a little overflow parking on that street. Member Winters does not think zero spots is reasonable. Member Winters stated the applicant could come back with a more thought out set of variance requests. Member Winters asked if the applicant has to request the continuance.

Ms. Skinner stated the Board closed the public hearing. Ms. Skinner noted there is nothing to request a continuance on.

Member Winters made a motion to have the public hearing re-opened for comment from the applicant. Member Monahan seconded. All in favor. The motion passed unanimously.

Acting Chair Wallner stated the case has been re-opened.

Member Winters asked Mr. Dratner if he wants to continue this application.

Mr. Dratner responded yes.

Member Monahan asked how much more time would Mr. Dratner need.

Ms. Skinner suggested to continue to November.

Acting Chair Wallner closed the public hearing.

On a motion made by Member Monahan, seconded by Member Winters, with a vote of 3 in favor (Winters, Monahan, Wallner) to 0 opposed, **the Board voted to continue the application until the November 5, 2025 meeting.**

- 4.2 **(continued from August 6, 2025)** Walter Dratner requests approval for a variance from Section 28-4-1(b) *Minimum Lot Size/(h) Table of Dimensional Regulations*, to permit lot area of 6,534 square feet where 7,500 square feet is otherwise required for the conversion of an existing building to a triplex, at Tax Map Lot 1431P 58, addressed as 181 Village St, in the Downtown Residential (RD) District. Not a development of regional impact. (ZBA 0297-2025)

On a motion made by Member Monahan, seconded by Member Winters, with a vote of 3 in favor (Winters, Monahan, Wallner) to 0 opposed, **the Board voted to continue the application until the November 5, 2025 meeting.**

- 4.3 **(continued from August 6, 2025)** Walter Dratner requests approval for a variance from Section 28-7-2(e) *Table of Off-Street Parking Requirements*, to permit zero parking spaces where six spaces are otherwise required for the conversion of an existing building to a triplex, at Tax Map Lot 1431P 58, addressed as 181 Village St, in the Downtown Residential (RD) District. Not a development of regional impact. (ZBA 0298-2025)

On a motion made by Member Monahan, seconded by Member Winters, with a vote of 3 in favor (Winters, Monahan, Wallner) to 0 opposed, **the Board voted to continue the application until the November 5, 2025 meeting.**

- 4.4 William Sheppard requests approval for a variance from Section 28-7-2(e) *Table of Off-Street Parking Requirements*, to permit five parking spaces where eight spaces are otherwise required for the conversion of an existing triplex to a fourplex, at Tax Map Lot 7441Z 5, addressed as 27 Monroe St, in the

Downtown Residential (RD) District. Not a development of regional impact. (ZBA 0309-2025)

Acting Chair Wallner read agenda items 4.4 and 4.5 into the record at the same time to be discussed as one.

There was no appellant to testify.

Ms. Skinner stated Mr. Sheppard has been notified more than once. Ms. Skinner noted he has been emailed and called several times with no response. Ms. Skinner stated they had questions on the application and have not received any response to calls or emails.

Member Winters asked if he will benefit from the new law.

Ms. Skinner responded he will.

Member Winters asked if he waits a month he will not need this.

Member Monahan noted there are some accessible parking questions.

Ms. Skinner stated there are questions and asked for a designed plan to show the dimensions of the parking spaces. It does not appear from the rough measurements that are taken off GIS that he is able to get under the new law the required parking spaces at the dimensions with the drive aisle. Ms. Skinner stated that is why they queried the applicant and there was no response.

Acting Chair Wallner asked if the Board continues this application.

Ms. Skinner stated she is not sure what good it would do to continue it because the applicant has not responded to any inquiries to get more information on the application.

Member Winters stated in fairness to the Board's time and the public anyone that wants to speak can and the Board can decide if they want to continue.

Acting Chair Wallner asked if there is any member of the audience that would like to speak in favor or opposition to the application, and with no response, closed the public hearing.

On a motion made by Member Monahan, seconded by Member Winters, with a vote of 3 (Monahan, Wallner and Winters) to 0, **the Board denied the variance request.** The request was denied because the materials submitted did not provide enough evidence to show that all the criteria under RSA 674:33 were met, and the applicant was not in attendance to present additional materials. The Board noted the following:

- *Granting the variance would be contrary to the public interest.*
- *The spirit of the ordinance would not be observed.*
- *The variance would not do substantial justice.*
- *The values of the surrounding properties would be diminished.*
- *No evidence was presented to show the special conditions that the property possesses that distinguish it from other properties in the area.*

Member Winters stated the burden of proof is on the applicant and they have not met their burden of proof. Member Winters noted if they have a strong reason they can file for a re-hearing and the Board will look at that.

All in favor. The motion to deny was unanimous.

- 4.5 William Sheppard requests approval for a variance from Section 28-5-3(b)(1) *Minimum Lot Size*, to permit lot area of 5,662.8 square feet where 10,000 square feet is otherwise required for the conversion of an existing triplex to a fourplex, at Tax Map Lot 7441Z 5, addressed as 27 Monroe St, in the Downtown Residential (RD) District. Not a development of regional impact. (ZBA 0310-2025)

On a motion made by Member Monahan, seconded by Member Winters, with a vote of 3(Monahan, Wallner and Winters) to 0, **the Board denied the variance request.** The request was denied because the materials submitted did not provide enough evidence to show that all the criteria under RSA 674:33 were met, and the applicant was not in attendance to present additional materials. The Board noted the following:

- *Granting the variance would be contrary to the public interest.*
- *The spirit of the ordinance would not be observed.*
- *The variance would not do substantial justice.*
- *The values of the surrounding properties would be diminished.*
- *No evidence was presented to show the special conditions that the property possesses that distinguish it from other properties in the area.*

All in favor. The motion to deny was unanimous.

- 4.6 John P. McGrath requests approval for a variance from Section 28-4-1(d)(3) *Minimum Side Yard Requirements*/(h) *Table of Dimensional Regulations*, to permit a side setback of 2 feet where 10 feet is otherwise required for the installation of a shed, at Tax Map Lot 7913Z 48, addressed as 303 S. Main St, in the Urban Transitional (UT) District. Not a development of regional impact. (ZBA 0311-2025)

John McGrath (303 S Main St, Concord) is present to represent this application. Mr. McGrath would like a shed in his front yard which would be against the setback two feet instead of ten feet. The side setback is a retaining wall where his driveway is located. Mr. McGrath stated he does not have a lot of room and the retaining wall of the neighboring property is 20 feet high. Mr. McGrath stated his property is terraced and he has to go down 14 steps to get to the second terrace and 14 steps to get to the lower area. Mr. McGrath stated everything down there he has to carry up. Mr. McGrath keeps a lawnmower down there. Mr. McGrath wants to have storage and a place for a snow blower and things to maintain his house.

Member Winters asked what he is abutting.

Mr. McGrath stated to the left is S & W's parking lot and to the right is a rental house.

Acting Chair Wallner asked if there is another location for the shed.

Mr. McGrath responded not on top, and that he stores his snow blower on his deck in the summer.

Member Monahan asked how long Mr. McGrath has lived there.

Mr. McGrath answered 20 years.

Acting Chair Wallner asked if there is any member of the audience that would like to testify in favor of this application, if there is any member of the audience that would like to testify in opposition, or any comments from Planning. With none, Acting Chair Wallner closed the public testimony.

Member Winters thinks given the unusual character of the lot which is the steep grade to get to the backyard in the winter, it is not functional. It is reasonable to put a shed where proposed and it is in character with the neighborhood as there are mixed uses. It is on a main road that has commercial uses and does not think it will be inappropriate in any way.

Member Monahan agrees.

Acting Chair Wallner agrees.

On a motion made by Member Winters, seconded by Member Monahan, with a vote of 3 in favor (Monahan, Wallner, Winters) to 0 opposed, **the Board granted the variance from Section 28-4-1(d)(3) Minimum Side Yard Requirements/(h) Table of Dimensional Regulations**, to permit a side setback of 2 feet where 10 feet is otherwise required for the installation of a shed, at 303 S. Main St, 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 will not change the essential character of the area and will not be contrary to the public interest. A neighboring property to the south has a shed structure located within the front setback, therefore the proposed encroachment would be consistent with the character of the surrounding area."
2. *The spirit of the ordinance is observed by granting the variance.* "It will not negatively impact abutters or or the public. My next door neighbor's tract to the south is bordered by my driveway retaining wall and fence, which mostly shields it from from their view and does not cause a negative impact on the adequate buffer between us."
3. *Substantial justice will be done by granting the variance.* "Since I can not meet section 28-5-32 which allows for a reduced side setback for accessory buildings due to the terraced nature of my property, the granting of this variance would provide relief to a reasonable request and is beneficial to the applicant who is an aging home owner and allows the most use and enjoyment of their property, Ease of access, and much needed storage space. The placement and the small size of the proposed accessory building is in keeping with the essential character and aesthetic of the area."
4. *The values of surrounding properties will not be diminished.* "There is no reason to believe that granting this permit will have any negative impact on surrounding property values. My property abuts an empty parking lot and vacant lot to the north and a small rental house and empty parking lot to the south. The placement, size, and color of the accessory building will compliment and not diminish the values of the neighboring residential homes located on the westerly side of South Main Street."
5. *Denial of the variance would result in unnecessary hardship because:* "My property is unique and conditions distinguish it from other neighboring properties due to it's triple terraced nature. The only and easiest accessible portion is the first terrace, located at street level. The second terrace begins at the bottom of a 12' foot drop accessible only from steps leading from the house. The third terraced area is located 15' below a steep slope and is only accessible by steps. I have include photos that depict this. There is no side access that would allow for the delivery and placement of this pre-built accessory building on the lower two terraced areas of

the property. This variance would allow the placement which would otherwise be impossible.”

- 4.7 Eastern Development, and Liberty Utilities request approval for a variance from Section 28-2-4(j) *Table of Principal Uses Use #A2 Duplex or two-family dwelling*, to permit a duplex where a duplex is not otherwise allowed, at Tax Map Lot 202Z 21, unaddressed Sewalls Falls Rd, in the Single-Family Residential (RS) District and Open Space Residential (RO) District. Not a development of regional impact. (ZBA 0312-2025)

Ryan Taber (PO Box 2671, Concord) and Brent Allard (24 Eastman Ave, Bedford) are present to represent this application. Mr. Allard stated Liberty Utilities is the owner of the property. Mr. Allard stated Mr. Taber through the LLC is the applicant. Mr. Allard noted the parcel is 3.09 acres that is heavily wooded. It is located between Beaver Meadow Golf Course and the bridge that goes over to the Concord Monitor building. Mr. Allard noted it is almost entirely in the RS District. There is a small sliver in the back on the rear that is RO district. Mr. Allard stated Unitil owns the property to the south and east. Mr. Allard noted there is a utility easement that extends across Sewalls Falls Rd on to a lot owned by the City of Concord. Just north of that on the opposite side of the tree from them is vacant land owned by the State of New Hampshire which has a 100-foot utility easement. The abutting site to the north of their property is the portion of the northern railroad property where the scenic rail riders are situated. That parcel runs south to 93 and 393 interchange. They are proposing one duplex building. The dwelling and infrastructure portion will all be situated in the RS District. They are asking for a use variance for the duplex which is not permitted by right. Mr. Allard stated there are some wetland pockets on the property. Mr. Allard noted they do need a conditional use permit from the Planning Board for the driveway that would be in a portion of the wetland setback and for some clearing around the house. Mr. Allard stated that was granted by the Planning Board two weeks ago with the condition of approval that they need the use variance.

Ms. Skinner responded no, the conditional use permit had nothing to do with the use of the property.

Mr. Allard stated there is water and sewer available. Mr. Allard read the five criteria submitted with the application.

Member Monahan asked if there is a structure on the property now.

Mr. Allard responded no, it is vacant.

Member Winters asked if it has been used for utilities.

Mr. Taber stated he does not think it was used for anything. It is raw vacant land and they decided to sell it this year.

Acting Chair Wallner asked if there is any member of the audience that would like to testify in favor of this application, if there is any member of the audience that would like to testify in opposition, or any comments from Planning. With none, Acting Chair Wallner closed the public testimony.

Member Winters stated it is clearly a unique parcel and tucked away. The size is big to allow a duplex.

Member Monahan stated he agrees and this is a unique property that hardship is easily met.

On a motion made by Member Monahan, seconded by Member Winters, with a vote of 3 in favor (Monahan, Wallner, Winters) to 0 opposed, **the Board granted the variance from Section 28-2-**

4(j) Table of Principal Uses Use #A2 Duplex or two-family dwelling, to permit a duplex where a duplex is not otherwise allowed, at Tax Map Lot 202Z 21, unaddressed Sewalls Falls 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.* "The proposed duplex use is not contrary to the public interest because:
 - It preserves the residential character, scale, and appearance of the neighborhood.
 - It mirrors historical and existing land uses in the immediate vicinity, including the former duplex at 176 Sewalls Falls Road.
 - It promotes infill housing in a location with existing infrastructure, aligning with the City of Concord's master plan and housing policy.
 - It helps alleviate Concord's acknowledged shortage of housing.The proposal presents no harm to public health, safety, property values, or general welfare. It is a logical, contextually appropriate form of residential use that benefits both the applicant and the broader public."
2. *The spirit of the ordinance is observed by granting the variance.* "The spirit of the ordinance is maintained because the proposed use does not violate the fundamental purpose of the zoning regulation, which is to preserve neighborhood form and function, not to rigidly exclude compatible housing types.
 - The proposed duplex will match the scale, design, and appearance of nearby single-family homes.
 - It will not create any land use conflicts, increase in intensity, or off-site impacts.
 - It meets all physical and dimensional requirements except for the use restriction. The ordinance's intent is better served by allowing a use that is in keeping with the surrounding context than by rigidly applying a restriction that undermines fairness and functionality."
3. *Substantial justice will be done by granting the variance.* "Substantial justice is done when the benefit to the applicant outweighs any detriment to the public. In this case:
 - The public suffers no harm. The proposed duplex use is low-impact, entirely residential, and consistent with nearby development.
 - The applicant faces a substantial and unnecessary burden if the variance is denied. While the property lies in the RS zone, the nearby RM zone—just a short distance away—permits duplexes by right. There is no meaningful physical or planning distinction between the subject lot and those within the RM district. The zoning boundary is arbitrary and disconnected from the actual development pattern in the area. As a result, the owner is restricted from making a reasonable residential use of the property, reducing its utility and market value based solely on a technical zoning designation rather than the lot's context. As the New Hampshire Supreme Court held in *Malachy Glen Assocs. v. Town of Chichester*, 155 N.H. 102 (2007), where there is no corresponding public gain to offset a private loss, denying a variance does not serve justice."
4. *The values of surrounding properties will not be diminished.* "The proposed duplex will not diminish the value of surrounding properties. On the contrary:
 - It will be professionally built and visually consistent with nearby homes.

- It will not create any measurable increase in traffic, noise, or demand on infrastructure beyond what is expected from a single-family home.
- It is likely to improve land utilization and may enhance area values by diversifying the housing stock and demonstrating investment in the neighborhood. There is no credible evidence that a well-integrated duplex in this context would negatively affect neighboring property values.”

5. *Denial of the variance would result in unnecessary hardship because:* “1. Special conditions of the property distinguish it from others in the area:

- The subject lot is in the Residential Single-Family (RS) zone but lies within close proximity to the Residential Medium (RM) zone, where duplexes are permitted by right.
- There is no meaningful difference in physical characteristics, infrastructure, topography, or development pattern between this lot and those in the adjacent RM district.
- The lot is part of a residential corridor that already includes a mix of single-family and two-family dwellings. 176 Sewalls Falls Road, just a few doors away, was previously used as a legal duplex, reinforcing that this housing type is appropriate for the area.
- The zoning boundary is arbitrary in its placement and does not reflect any observable change in land use, capacity, or neighborhood character. It creates an artificial barrier that unfairly restricts reasonable development on this specific parcel.

6. The ordinance’s application to this property is unreasonable:

- The restriction serves no valid planning or public purpose when applied to this lot. It blocks a residential use that is consistent with surrounding homes, aligns with infrastructure capacity, and supports local housing policy goals.
- Enforcing the ordinance strictly in this context deprives the owner of a reasonable and appropriate use of the property, one that would otherwise be permitted just a short distance away.
- The effect is to reduce the property's utility and market value solely due to a technical zoning designation, not any legitimate planning rationale. This situation satisfies the unnecessary hardship standard under *Simplex Technologies v. Town of Newington*, 145 N.H. 727 (2001). As applied, the ordinance bears no substantial relationship to its stated purpose and imposes a hardship that is both unique to this parcel and not self-created. Without the variance, the property owner is unfairly denied the ability to develop a modest, well-suited residential use that is compatible with the surrounding area.”

4.8 Paul and Megan Crevier request approval for a special exception pursuant to Section 28-7-17 *Parking of Commercial Vehicles*, and in accordance with Section 28-9-3(b) *Special Exceptions*, to permit the parking of one commercial vehicle at Tax Map Lot 8723Z 11, addressed as 5 Midland St, in the Single-Family Residential (RS) District. Not a development of regional impact. (ZBA 0313-2025)

Paul Crevier (5 Midland St, Concord) and Megan Crevier (5 Midland St, Concord) are present to represent this application. Mr. Crevier stated he took a promotion with Eversource and is considered a first responder and needs the company vehicle at the house.

Acting Chair Wallner stated a special exception is a little different than a variance request. Acting Chair Wallner asked Mr. and Mrs. Crevier to tell the Board how they meet those criteria.

Mr. Crevier stated he arranged his vehicle and set back 25 feet from the road and can get back further if expand the driveway a little bit more.

Ms. Crevier noted they have a support letter from an abutting neighbor and passed around for the Board to read.

Member Winters asked how long has he been parking the vehicle there.

Mr. Crevier stated he just got the promotion around the fourth of July.

Member Winters asked if there have been any complaints.

Mr. Crevier responded yes.

Member Monahan asked Mr. Crevier to describe the size of the vehicle.

Mr. Crevier stated it is a E350 cut away van with a utility bod on the back. It is roughly ten foot ten tall.

Member Monahan asked if there are two axles.

Mr. Crevier responded yes.

Member Monahan asked if there is a boom on it.

Mr. Crevier answered no, it is a cut away van.

Ms. Skinner there is a picture of it. Ms. Skinner stated what triggers it as a commercial vehicle and needing the special exception is the height. Ms. Skinner noted two axles are allowed and it can be registered as a commercial vehicle but the height limit in the definition of commercial vehicle is seven feet. It is over seven feet and that is what makes it a commercial vehicle that requires the special exception.

Member Winters asked if he is considered a first responder.

Mr. Crevier stated he is primarily in substations and if something goes down in a substation, it is a massive outage.

Member Winters asked if they want him there immediately.

Mr. Crevier responded yes, so they can get there as quick as they can.

Member Winters asked what is the company policy for this.

Mr. Crevier stated they want them to take the company trucks home so they can respond faster.

Member Winters asked if Eversource provided any guidance or just said take the company truck home.

Mr. Crevier responded take the truck home and see what happens.

Member Winters asked if this is denied what is their alternative.

Mr. Crevier stated he can park it on the road and then he is taking up most of the road.

Member Winters asked if he can park it at an Eversource facility.

Mr. Crevier stated he would have to go to Hooksett.

Acting Chair Wallner asked if he can park on the street.

Mr. Crevier stated to his knowledge he can park it on the road as long as he moves it every 48 hours.

Ms. Skinner stated that is correct, it is a public street.

Member Monahan asked if Mr. Crevier takes it to work every day.

Mr. Crevier responded yes.

Member Winters asked how often do the first responders get called out.

Mr. Crevier stated he has been called out three or four times within the last month.

Ms. Crevier stated they do have a lot of children in the neighborhood. They do not want to park on the street and disrupt the children.

Member Winters asked if they can get it in the carport.

Mr. Crevier answered no, it will not because of the way roof slopes down in the front.

Acting Chair Wallner asked if there is any member of the audience that wishes to speak in favor of this application.

Bill Whitmore (4 Midland St, Concord) and Jill Whitmore (4 Midland St, Concord) do not have any issue with the vehicle. Mr. Whitmore stated they have lived at the same home for 33 years. Mr. Whitmore noted parking on the street would impede the area around with the kids and safety. Mr. Whitmore stated there has not been one issue with the vehicle.

Ms. Whitmore stated it has not been an issue. Ms. Whitmore noted Mr. Crevier has done everything to be considerate of the neighbors.

Acting Chair Wallner stated they did have a letter asking for clarification from Leslie Berry and Ms. Skinner addressed that issue.

Ms. Skinner stated Ms. Berry called and had questions about the special exception by what criteria is it granted. Ms. Skinner went through those with her and the definition of commercial vehicle. Ms. Skinner explained all that was triggering this as a commercial vehicle was the height. Ms. Skinner explained that it met all the criteria for special exception with perhaps the exception of the front setbacks. Ms. Skinner stated the front setback is 25 feet and it specifically says the vehicle cannot be parked in the front setback. Ms. Skinner stated she did call the applicant as well and he said he would move the vehicle so that it was out of the front setback.

Acting Chair Wallner closed the public testimony.

Member Winters stated the Board needs to be cautious in these situations it is the type of thing is only enforced if someone calls. Member Winters noted in his mind it is going off the sincerity of the applicant and would be inclined to approve.

Both Members Monahan and Wallner had nothing to add.

On a motion made by Member Winters, seconded by Member Monahan, with a vote of 3 in favor (Monahan, Wallner, Winters) to 0 opposed, **the Board moved to approve the special exception request to permit the parking of one commercial vehicle pursuant to Section 28-7-17 *Parking of Commercial Vehicles***, and in accordance with Section 28-9-3(b) *Special Exceptions*, at 5 Midland St, because all of the criteria under Section 28-9-3(b)(2) *Requisite Findings* of the Zoning Ordinance 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 requested use is specifically authorized in this ordinance. "Article 28-7-17 - Parking of Commercial Vehicles."*
 2. *The requested use will not create undue traffic congestion or unduly impair pedestrian safety. "It is one commercial vehicle parking in my driveway at night time."*
 3. *The requested use will not overload any public or private water, drainage, or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets. "There will be no effect to any municipal system."*
 4. *The requested use will not create excessive demand for municipal police, fire protection, schools, or solid waste disposal services. "It is one commercial vehicle parking in my driveway at night time."*
 5. *Standards, of this ordinance are fulfilled. "N/A"*
 6. *Where the special exception is related to a nonconforming use or structure, the requirements and standards as set forth in Section 28-8-4(b), Change from One Nonconforming Use to Another by Special Exception, or Section 28-8-5(c), Replacement of Nonconforming Structures That Have Been Destroyed, or Section 28-8-5(d), Removal and Replacement of Certain Nonconforming Residential Structures, of this ordinance, are fulfilled. (No response noted on the applicant's findings)*
 7. *The required use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood. "It is one commercial vehicle parking in my driveway at night time."*
 8. *The proposed location is appropriate for the requested use. "It is one commercial vehicle parking in my driveway at night time."*
 9. *The requested use is consistent with the spirit and intent of this ordinance and the Master Plan. "N/A"*
- 4.9 Joseph and Elizabeth MacRobert request approval for a variance from Section 28-4-1(d)(1) *Minimum Front Yard Requirements*/(h) *Table of Dimensional Regulations*, to permit a front setback of 32 feet where 50 feet is otherwise required for the addition of a carport, at Tax Map Lot 32Z 13, addressed as 22 Horse Hill Rd, in the Open Space Residential (RO) District. Not a development of regional impact.

(ZBA 0314-2025)

Joseph MacRobert (22 Horse Hill Rd, Concord) and Dan Coen (130 Dustin Rd, Contoocook) are present to represent this application. Mr. Coen stated there is an existing garage that is 20 by 20. Mr. MacRobert would like to put a 12 by 20-foot-wide shed along the side of the garage. The challenge is the front setback is only 32 feet from the edge of the road. The proposed shed would come to the front of the existing garage.

Acting Chair Wallner asked if the front of the shed will not encroach any more than the garage.

Mr. Coen responded correct.

Member Winters asked if this is not a carport.

Mr. Coen stated you could call it a carport.

Member Winters asked if they were going to attach it to the existing garage.

Mr. Coen responded yes.

Member Winters asked the addition in the setback is no more than what is there currently.

Mr. Coen answered correct.

Member Monahan asked why would they not build a place somewhere else on the property.

Mr. MacRobert stated if you look at the topography of the property it goes up behind the garage. There would be a fair amount of excavation.

Member Monahan asked if the uniqueness of the property is the slope.

Mr. MacRobert answered it is.

Member Monahan asked Mr. MacRobert to discuss the abutters.

Mr. MacRobert stated the area is residential and cannot see anything if by the garage because there are woods all around that area.

Acting Chair Wallner asked if there is any member of the audience that would like to testify in favor of this application, if there is any member of the audience that would like to testify in opposition, or any comments from Planning. With none, Acting Chair Wallner closed the public testimony.

Acting Chair Wallner noted the Board tends to approve additions like this when there is no further encroachment from the existing setback that already exists and would support a motion to approve.

Member Winters agrees and they see the request to expand the garage since they have a small garage.

On a motion made by Member Winters, seconded by Member Monahan, With a vote of 3 in favor (Monahan, Wallner, Winters) to 0 opposed, **the Board granted the variance from Section 28-4-1(d)(1) Minimum Front Yard Requirements/(h) Table of Dimensional Regulations**, to permit a front setback of 32 feet where 50 feet is otherwise required for the addition of a carport at 22 Horse

Hill 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.* "This would have no negative impact to the public or to the neighborhood."
 2. *The spirit of the ordinance is observed by granting the variance.* "It would allow us to have covered space to park our car to keep the driveway clear for the winter. This would make it easier and safer to access snow removal equipment that is located in the garage. The existing garage is over 100 years old and would be considered small by today's standards."
 3. *Substantial justice will be done by granting the variance.* "Having the car in the carport would allow more space in the driveway."
 4. *The values of surrounding properties will not be diminished.* "It would not have any significant impact to the surrounding properties."
 5. *Denial of the variance would result in unnecessary hardship because:* "The existing garage is small and over 100 years old. The location of the garage has never caused an issue with the road or traffic. The building permit for the carport was denied due to the location of the existing garage that the proposed carport would be attached to. It would be considered cost prohibitive to move the existing garage or to create access to build a carport far enough from the road to satisfy current setback requirements."
- 4.10 Michelle Guenther requests approval for a variance from Sections 28-4-1(d)(1) *Minimum Front Yard Requirements*/(3) *Minimum Side Yard Requirements*/(h) *Table of Dimensional Regulations*, to permit a front setback of 4 feet and a side setback of 5 feet where 10 feet is otherwise required for the addition of a deck and stairs, at Tax Map Lot 7414Z 36, addressed as 5 Lincoln St, in the Downtown Residential (RD) District. Not a development of regional impact. (ZBA 0315-2025)

Acting Chair Wallner read agenda items 4.10 and 4.11 into the record at the same time to be discussed as one.

Michelle Guenther (5 Lincoln St, Concord) and Norm Hebert are present to represent this application. Ms. Guenther stated she purchased the home a little over a year ago. Ms. Guenther noticed the front steps of the house seem to be unsafe. Ms. Guenther wants to redirect the stairs to go towards the driveway with a little deck to make more aesthetically pleasing.

Mr. Hebert stated the deck does not go any farther to the road than it is currently.

Acting Chair Wallner asked if they are putting the deck where the house number is located.

Ms. Guenther stated there is a little white fence and inside that area is where they want the deck to go with the steps to the left of the number five.

Member Winters asked if going out in equal distance but just a little wider.

Ms. Guenther responded exactly, they are looking to take out the stone steps and bring the deck across where the steps are right now to the side of the house.

Mr. Hebert has a plot plan and mark-up of the deck.

Acting Chair Wallner asked if it was submitted.

Ms. Guenther does not think the Board has the three-dimensional drawing.

Member Monahan asked the height of the deck and same as the steps there now.

Ms. Guenther does not believe there is any change to the height.

Mr. Hebert stated it is the same top height that is there currently.

Acting Chair Wallner asked if there is any member of the audience that would like to testify in favor of this application, if there is any member of the audience that would like to testify in opposition, or any comments from Planning. With none, Acting Chair Wallner closed the public testimony.

Member Winters stated it is a dense lot and in a relatively dense area. Member Winters noted this is a reasonable use to add a small deck with the stairs.

Member Monahan does not know if there is distinction between the deck and front porch. This looks more like a front porch but there is a safety issue to exit down less steep stairs to go into the driveway.

Acting Chair Wallner agrees.

On a motion made by Member Winters, seconded by Member Monahan, **with a vote of 3 in favor (Monahan, Winters, Wallner) to 0 opposed, the Board granted the variance from Sections 28-4-1(d)(1) *Minimum Front Yard Requirements*/(3) *Minimum Side Yard Requirements*/(h) *Table of Dimensional Regulations*** to permit a front setback of 4 feet and a side setback of 5 feet where 10 feet is otherwise required for the addition of a deck and stairs, addressed as 5 Lincoln St, 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.* "The replace of the front stairs and addition of a small deck would improve the aesthetics of the front of the house."
2. *The spirit of the ordinance is observed by granting the variance.* "The contractor NH Home Care will follow the plans set up for the project to improve the front stairs and addition of the deck."
3. *Substantial justice will be done by granting the variance.* "The current stairs are unsafe and the replace of stairs and addition of small deck would improve the aesthetics of the dwelling."
4. *The values of surrounding properties will not be diminished.* "No they would not."
5. *Denial of the variance would result in unnecessary hardship because:* "There would be no unnecessary hardship if the variance were approved."

4.11 Michelle Guenther requests approval for a variance from Section 28-4-1(e) *Maximum Lot Coverage*/(h)

Table of Dimensional Regulations, to permit lot coverage of 65% where 60% lot coverage is the maximum otherwise required for the addition of a deck and stairs, at Tax Map Lot 7414Z 36, addressed as 5 Lincoln St, in the Downtown Residential (RD) District. Not a development of regional impact. (ZBA 0320-2025)

On a motion made by Member Winters, seconded by Member Monahan, with a vote of 3 in favor (Monahan, Winters, Wallner) to 0 opposed, **the Board granted the variance from Section 28-4-1(e) Maximum Lot Coverage/(h) Table of Dimensional**, to permit lot coverage of 65% where 60% lot coverage is the maximum otherwise required for the addition of a deck and stairs, addressed as 5 Lincoln St, 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.* "The improvements made to the front staircase would not be contrary to the public interest. The improvements would make the stairs safer and the additional small deck would improve the aesthetic of the property."
 2. *The spirit of the ordinance is observed by granting the variance.* "The contractor from NH Home care would follow the submitted plans."
 3. *Substantial justice will be done by granting the variance.* "The front stairs will be safe for visitors and provide appealing addition of the small deck."
 4. *The values of surrounding properties will not be diminished.* "No the value would not be diminished. The changes will only enhance the character of the home"
 5. *Denial of the variance would result in unnecessary hardship because:* "The proposed use is reasonable for the property. No unnecessary hardship would be made."
- 4.12 City of Concord requests approval for a variance from Section 28-6-9(c)(1)(c) *Permitted Freestanding Signs Maximum Area* to allow a 206-square-foot sign where the maximum square footage allowed is 40 square feet, at Tax Map Lot 64Z 2, addressed as 19 Loudon Rd, in the Institutional (IS) District. Not a development of regional impact. (ZBA 0316-2025)
This agenda item was removed from discussion because it falls under RSA 674:54.
- 4.13 City of Concord requests approval for a variance from Section 28-6-9(c)(1)/28-6-9(a) *Table of Maximum Sign Dimensions for Nonresidential Districts Maximum Height* to allow a sign that is 15.5 feet tall where the maximum allowed height is 12 feet, at Tax Map Lot 64Z 2, addressed as 19 Loudon Rd, in the Institutional (IS) District. Not a development of regional impact. (ZBA 0317-2025)
This agenda item was removed from discussion because it falls under RSA 674:54.
- 4.14 City of Concord requests approval for a variance from Section 28-6-9 (e)(1) *Sign Illumination* to allow a sign that is internally illuminated where external illumination by a shielded fixture is all that is allowed otherwise, at Tax Map Lot 64Z 2, addressed as 19 Loudon Rd, in the Institutional (IS) District. Not a development of regional impact. (ZBA 0318-2025)
This agenda item was removed from discussion because it falls under RSA 674:54.
- 4.15 32 Federal Street Concord LLC requests approval for a variance from Sections 28-4-1(d)(1) *Minimum Front Yard Requirements*, (2) *Minimum Rear Yard Requirements*, and (3) *Minimum Side Yard*

Requirements/(h) Table of Dimensional Regulations, to permit a front setback of 5 feet, a rear setback of 4 feet, and side setbacks of 4 feet, where 15-foot front, rear, and side setbacks are otherwise required for the construction of a new duplex, at Tax Map Lot 7411Z 112, addressed as 32 Federal St, in the Civic Performance (CVP) District. Not a development of regional impact. (ZBA 0319-2025)

Acting Chair Wallner read agenda items 4.15 and 4.16 into the record at the same time to be discussed as one.

Andrew Pieroni (3 Railroad St, Newmarket) is present to represent this application. Mr. Pieroni noted the lot at 32 Federal St is just shy of 2,700 square feet. It is occupied currently by a 713-square-foot garage structure. Mr. Pieroni noted 80% of the lot is covered by impervious surface from both pavement and the garage. At the southern end is non-pervious surface with grass. The lot is in the Civic Performance District and allowed in this district can be a single-family, duplex or two-family dwelling. They are proposing a duplex. On the plan sheet the interior dashed line perpendicular to the structure is to show the zoning setbacks that are allowed in this district. Mr. Pieroni noted what is unique about this property is that only a 20 by 20 structure would be able to be built there. The other issue is that this district requires 120 feet of frontage and this property has 52 feet of frontage. No matter what is constructed they will need a variance for frontage. Mr. Pieroni will do parking within the proposed structure. They are looking to reduce the impervious from 79% to 75% and that is not a huge drop. Mr. Pieroni had a pre-application meeting and the feedback was positive.

Member Winters asked what is on the property now.

Mr. Pieroni said it is a garage.

Member Winters asked what has the property been used for in the past.

Mr. Pieroni stated right now it is a garage. Mr. Pieroni cannot speak to the past and has not looked too deep into any past use. Mr. Pieroni noted there is a fence on the rear and thinks there could be joint use with the other properties.

Member Monahan asked who owns the property.

Mr. Pieroni responded 32 Federal Street LLC.

Member Monahan asked if it is associated with an adjoining property that would use the garage.

Mr. Pieroni stated as far as he is aware no.

Member Winters stated it is surprising the property has not been developed.

Mr. Pieroni noted it is a central spot.

Member Winters stated it is a pretty high demand area.

Mr. Pieroni responded correct.

Member Monahan asked if they will remove the garage and build a duplex.

Mr. Pieroni answered correct.

Member Winters asked Mr. Pieroni if anyone uses the garage or if it is rented.

Mr. Pieroni stated he did not know.

Member Monahan asked Mr. Pieroni if they will put in a foundation.

Mr. Pieroni stated there will be knee walls and does not think there will be a full foundation with parking at street level.

Member Monahan asked about the abutters if residential and commercial.

Mr. Pieroni stated it is a mix of single and multi-family residential and commercial development on the south.

Member Winters stated he is a little surprised the developers are not here.

Mr. Pieroni stated something came up.

Acting Chair Wallner asked Mr. Pieroni to address the hardship issues.

Mr. Pieroni read from the five criteria that were submitted with the application.

Member Winters asked if they were to build a single-family house as an alternative would they need not the exact same but similar relief.

Mr. Pieroni stated they would need frontage relief and setbacks because a 20 by 20 garage is small relative to today's cars. They would need to go for a little bigger structure.

Member Winter stated unless you build a really small house.

Mr. Pieroni noted they are restricted by building height.

Acting Chair Wallner asked how many parking spots they are proposing.

Mr. Pieroni responded two.

Acting Chair Wallner asked about the location of the parking.

Mr. Pieroni stated within the building footprint.

Member Winters asked about the new law and required parking of only one space per unit.

Mr. Pieroni answered correct.

Member Monahan stated the owner is not here.

Acting Chair Wallner asked if there is any member of the audience that would like to speak in favor of this application and there was no response. Acting Chair Wallner asked if there is anyone in the audience that would like to speak in opposition to this application.

Hannah Cote (29 Federal St, Concord) stated 32 Federal St is being used. There are five units in 29 Federal St and they all park there everyday 24/7. Ms. Cote stated there are four cars on that lot all

of the time. Ms. Cote noted there are two more there is a vacant unit they are renovating in the next month and a half. Once the vacant unit is finished there will be two more cars there.

Member Winters asked when you saw “they” you mean the apartment owners.

Ms. Cote responded yes, she is assuming it is the same property management company.

Acting Chair Wallner asked if they rent a space there.

Ms. Cote stated it is a part of their lease agreement that they have a parking spot. Ms. Cote noted there is nowhere else for their cars to go. Ms. Cote stated there is one car that parks in front of the house and everyone else is in the lot. Ms. Cote noted her lease goes until May of next year. Ms. Cote is not sure what the timeline would look like but she never would have signed a lease without guaranteed parking. Ms. Cote also has concerns about the traffic. Ms. Cote was not informed by the property management company she was informed by a neighbor about the notice from the city.

Member Winters asked if the owners of her building own the garage.

Ms. Skinner stated yes, they do.

Acting Chair Wallner asked Ms. Cote if everyone in the building has a parking arrangement.

Ms. Cote responded yes, it is in everyone’s leases.

Jason Belanger (36 Federal St, Concord) and Seana McDuffie (36 Federal St, Concord) are the house immediately next door to 32 Federal St.

Ms. McDuffie is in opposition of this application. Ms. McDuffie believes this street and spot are the wrong to place to do so. It is already a small and cramped street. Parking is bad. If there is one car in the street it messes up the whole thing. If they were to move forward with construction that would tie up the whole street.

Mr. Belanger stated the parking issue it is his understanding the tenants of 29 Federal St do park there. They have that in their lease agreement. It is already being legally used for that. Mr. Belanger stated the street is really crowded and if there is any obstruction in the road you are stuck there. Mr. Belanger noted it is a one-way street. Mr. Belanger noted snow removal and there is no place to put the snow in the winter. Mr. Belanger stated there is a Japanese knot wood infestation and it is hard to control or kill.

Mark Normandon (54 Pleasant St, Concord) and Patrick Lang (54 Pleasant St, Concord) are in opposition to the application.

Mr. Lang stated there is no hardship. Mr. Lang noted they were asking about the property it has always been a three-car garage. It has been paved and had cars parked. The land owner passed away. The family inherited property. There is no change in the use or regulations on the property. Mr. Lang asked if the Board received his letter that was submitted.

Acting Chair Wallner responded yes.

Mr. Lang stated they represent 10 families that live in the church and everyone agrees with the letter that was submitted. Mr. Lang noted people are parking on the sidewalks now and it is one-way.

Mr. Normandon wanted to add about the parking. Mr. Normandon stated he took a photo on Monday and people park on the sidewalk directly opposite the garages for this application and means pedestrians have to walk in the street. Mr. Normandon noted it is already chaotic and too crowded.

Member Winters asked what if they want to build a single-family.

Mr. Lang stated that would be fine, that they have the room for cars.

Mr. Normandon stated it seems more reasonable.

Member Monahan noted they will still have setback issues.

Member Winters noted the total density is the issue.

Acting Chair Wallner asked if there is any other member of the audience that would like to speak either in favor or opposition to this application. With no response Acting Chair Wallner asked Mr. Pieroni if he would like to speak for a rebuttal.

Mr. Pieroni stated he is not involved in terms of how the leases are negotiated. Mr. Pieroni noted lease agreements are between the landlord and tenant. They would need to be honored throughout the term of the lease and would have to find parking solutions going forward. Mr. Pieroni noted they may be using the parking there now and, in the future, they will find a solution for you if you continue to rent there. Mr. Pieroni stated they had a pre-application meeting with city officials from fire department, safety police and public works they got generally positive feedback for use of the lot for the proposed duplex. Mr. Pieroni stated they did not see any concern brought forward from the city. Mr. Pieroni noted the construction concerns about the lot and prior to any construction there would need to be a preconstruction meeting. The development group would have to come together with plans on how they would park contractors, store supplies, and materials. Mr. Pieroni noted snow removal would not need to go through site plan process and part of the permitting process they would need to address snow removal. Mr. Pieroni noted the parking concerns and traffic on the street. Mr. Pieroni stated again there was a preapplication meeting with city staff and they did not bring up strong concerns about this street. The parking is proposed to be within the footprint of the building. Mr. Pieroni noted again the reduction in impervious from 79% to 75%.

Ms. Skinner provided some facts about the ownership in that 29 Federal St is owner by 29 Federal Street Concord LLC and 32 Federal St is owned by 32 Federal Street Concord LLC. Ms. Skinner stated they are the same people. The registered agent name with the Secretary of State website for 29 and 32 Federal St is Robert A. Previti and H. Benjamin Stebbins. Benjamin Stebbins signed the owner authorization form to authorize the application. Ms. Skinner noted between the parking and lease agreements Benjamin Stebbins owns both parcels. Ms. Skinner stated regarding uses for a duplex and a house they are permitted outright. Either a house or a duplex would require a variance for frontage. The frontage requirement for a house is 80 feet. Ms. Skinner noted it would not count as a nonconforming lot because the opposite lot has been owned by the same ownership for the last however many years. It negates it as being nonconforming. Ms. Skinner noted for a house that has 22 feet of frontage they can build a house. There is no area requirement in the CVP. Ms. Skinner stated the reason why the variance is needed for the duplex is because the zoning ordinance has it so that it is required to have one and a half times the area and lot frontage requirement. If it is in a district that does not have a lot area requirement that is goes to using the requirement of the RD District. Ms. Skinner noted the height allowance is 45 feet.

Member Winters asked if it would still require the setbacks.

Ms. Skinner stated it depends.

Mr. Pieroni noted if they added a house, there would still be the same volume of traffic and it will not be any different.

Member Monahan noted it sounds like if they grant this there will be an apartment building that no longer has parking.

Ms. Skinner stated that is a civil issue.

Member Monahan noted the applicant stated they had a pre-application process and staff seemed to be supportive of the project. Member Monahan does not think that is fair.

Ms. Skinner stated staff does not provide support one way or another in a pre-application meeting. The purpose of the pre-application meeting is to point out red flags, items that staff sees that could be issues or problems, if variances are needed, if a conditional use permit is required, if there is something in the master plan or the CIP - they bring all of those issues forward.

Member Monahan stated they do not bless projects.

Ms. Skinner stated they do not bless projects because that is not the role of staff. Ms. Skinner noted either Zoning Board or Planning Board makes the decision, not staff.

Member Monahan stated he knew that and wanted to make sure there was clarification for the record. Member Monahan stated this is challenging and they need to take into account public safety. Member Monahan is struggling with the lack of a case for hardship. Member Monahan does not see anything unique with the property.

Acting Chair Wallner noted the character of the neighborhood is that no one would meet the setback right now.

Member Winters thinks that this is a challenging case. The balance is it is a desirable area and dense. Member Winters stated that road is a nightmare and he got stuck on it. Member Winters disagrees with the association that there is a hardship and if they do not give them any relief they can build an awkward tiny tall building. Member Winters does not think that will benefit anybody. Member Winters noted the setback is traditionally found if there is a lot that can support a building they will give some relief but they are concerned about the total density to the minimum lot size requirement.

A motion made by Winters to grant the variance request for setbacks failed with 2 voting in favor (Wallner, Winters) and 1 voting in opposition (Monahan), so the motion failed without the required three votes in favor.

- 4.16 32 Federal Street Concord LLC requests approval for a variance from Sections 28-4-1(b) *Minimum Lot Size*, 28-4-1(c) *Minimum Lot Frontage*, (h) *Table of Dimensional Regulations*, and 28-5-2 *Duplex or Two-Family Dwelling*, to permit lot area of 2,613.6 square feet and frontage of 54.7 feet, where 11,250 square feet and 112.50 feet, respectively, are otherwise required for the construction of a new duplex, at Tax Map Lot 7411Z 112, addressed as 32 Federal St, in the Civic Performance (CVP) District. Not a development of regional impact. (ZBA 0321-2025)

Winters made a motion to deny. Monahan seconded. All in favor. Unanimous

On a motion made by Member Winters, seconded by Member Monahan, with a vote of 3 in favor (Monahan, Wallner, Winters) to 0 opposed, **the Board DENIED the variance request for minimum lot size and minimum lot frontage.** The request was denied because the materials submitted did not provide enough evidence to show that all the criteria under RSA 674:33 were met, and the applicant did not present additional evidence at the public hearing to meet the criteria. Specifically, it was denied because:

- *Granting the variance would be contrary to the public interest.*
- *The spirit of the ordinance would not be observed.*
- *The variance would not do substantial justice.*
- *The values of the surrounding properties would be diminished.*
- *No evidence was presented to show the special conditions that the property possesses that distinguish it from other properties in the area.*

5. **Review and acceptance of minutes from August 6, 2025**

This agenda item was moved to next month due to only three members being present and one of them was not at the August 6, 2025 meeting.

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

7. **Adjourn**

On a motion made by Member Monahan, seconded by Member Winters, the Board unanimously voted 3 in favor (Monahan, Wallner, and Winters) to 0 opposed to adjourn at 8:29 p.m.

Respectfully submitted,

Krista Tremblay

Krista Tremblay

Administrative Technician III