



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

October 1, 2025
MEETING MINUTES

Attendees: Chair Christopher Carley, Member Laura Spector-Morgan, Member Nicholas Wallner, Member Andrew Winters, Alternate Member Mark Davie and Alternate Member Brenda Perkins.

Absent: Member James Monahan

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

1. Call to order

Chair Carley called the meeting to order at 6:01 p.m.

2. Chairperson's comments

3. Public meetings

4. Public hearings

- 4.1 Automotive Supply Associates, Inc. and Jeffrey White (JEFKEL, Inc. dba Garry's Fleet Services) request approval for a variance from Section 28-2-4(j) *Table of Principal Uses* Use #J4 *Automotive repair, service, and towing, excluding body work*, to permit automotive repair and service, where they are not otherwise allowed, at 263 South Main Street, Building 9, Units 3 and 4, in the Urban Transitional (UT) and Opportunity Corridor Performance (OCP) Districts. Not a development of regional impact. (ZBA 0322-2025)

Jeff White (263 S Main St, Concord) is present to represent this application. Mr. White is the owner of Gary's Service Center for about 17 years. Mr. White noted it's always busy and hard to put a car on the property. Mr. White stated they are not open on Saturday and Sunday. Mr. White stated they have expanded to commercial fleet business for plumber trucks, lift trucks and school bus repairs. They are also a school bus inspection station. Mr. White stated the facility at 323 South Main St is not big enough. Mr. White has been looking to separate the business for a couple years and it has been hard to find a location in Concord to fit their requirements. Mr. White noted 263 South Main St. is not on the main road it is down behind the old Sanel auto parts store. There are six other auto repairs shops there. Mr. White rented a couple of bays. When he went to get his New Hampshire inspection station for school buses he was informed there is an issue with the zoning.

Chair Caley asked they meaning the city.

Mr. White stated the DMV went to the city and the city contacted DMV to say there is an issue. The state noted they cannot grant an inspection license for school buses until this is resolved. Mr. White noted there are six other shops at that location. Mr. White stated he employs three full-time people for the expansion of the business. Mr. White noted if he cannot use this location, he is not sure where in Concord he can do his business. Mr. White stated he has looked for years for a place to expand and there is not a building that is feasible. Mr. White noted Gary's is in a busy area and the traffic volume is very heavy. Mr. White pointed out there is an impound lot that is fenced in with a lockable gate for over flow vehicles. Mr. White noted by splitting his business from 323 S Main St to 263 S Main St he will bring 30 to 40 cars plus per day relief for people coming into that intersection. However, the vast majority of the deliveries will not have to come down the hill because they are coming from the parking lot at Sanels'.

Member Winters asked if he is continuing to operate at both locations.

Mr. White needs to operate at both locations. Mr. White noted 323 S Main St. is an eight-bay shop and the new shop is three bays.

Member Wallner asked for Mr. White to discuss the neighbors.

Mr. White stated on the immediate sides there is a woodworking shop and other side is company that wraps fleet vehicles. There are three to four other auto repair shops also located in the building.

Member Spector-Morgan asked how did that happen.

Ms. Skinner said there is a mix of things with uses and some are nonconforming.

Mr. White said across the parking lot is German Autoworks.

Ms. Skinner stated there is a split zone.

Member Winters asked who leases the building.

Mr. White responded Bobby Segal.

Member White noted he has rented this for a long time and surprised no one mentioned that you need a variance and he just found out.

Mr. White stated he had no idea and his lease says for specifically, auto repair but not paint and body work, is what I am doing down there. There is a company there that does oil undercoating spray, sand blasting company, car detailing and a vending machine company.

Chair Carley is confused about the zoning and asked for explanation because it looks like a fruit salad.

Ms. Skinner stated these three buildings are in the Urban Commercial District so their uses are different. There are three buildings are in the Opportunity Corridor Performance District. There is Urban Transitional District however, there are not any buildings in this district. Ms. Skinner noted the building he is in is in the Opportunity Corridor Performance District and it does not allow that use.

Chair Carley asked if you were standing on the property the buildings would look like they are a part of the same complex.

Ms. Skinner responded yes, it is all owned by the same person and you would not know unless you looked at the zoning map and understood that the boundary of the zone are within the building of that zone.

Chair Carley asked if there is anything else Mr. White would want to say to the Board.

Mr. White stated if this is not allowed it would be catastrophic for his business.

Chair Carley stated there is a four-member Board and asked which alternate would like to sit in on this case.

Alternate Member Perkins will take this case.

Chair Carley noted for the record there is now a five-member Board. Chair Carley asked if there is any member of the audience that wishes to be heard in favor of this appeal, anyone in opposition, and if Planning Division staff had any comments. With no comments, Chair Carley closed the public hearing.

Member Wallner thinks it is academic why he is even here as there are many facilities of a similar nature there and inclined to approve it.

Member Winters stated it is surprising to learn and that whole thing is automotive use. Member Winters noted it is geographically isolating by going down a steep incline and it is well suited for this and convenient for people who need their repairs done. It is also not an eyesore. Member Winters noted on the merits it qualifies.

Member Spector-Morgan wants to say yes, but cannot see the hardship.

Alternate Member Perkins is inclined to approve it. Alternate Member Perkins noted Mr. White has been put in a difficult situation without enough information that was not provided. Alternate Member Perkins stated she has been in and out of that location in the past. Alternate Member Perkins does not think it is a detriment and will help the neighborhood of his other property which is residential which will allow less congestion. Alternate Member Perkins noted who ever called it fruit salad for zoning is spot on which provides a difficulty.

Chair Carley inclined to agree with his colleagues who are in favor of the appeal. The hardship is brought on by the rather bizarre configuration of the zoning boundary's and inclined to approve a motion to support.

On a motion made by Member Wallner, seconded by Alternate Member Perkins, the Board **with a vote of 4 in favor (Perkins, Carley Wallner, Winters) to 1 opposed (Spector-Morgan), the Board granted the variance from Section 28-2-4(j) Table of Principal Uses Use #J4 Automotive repair, service, and towing, excluding body work**, to permit automotive repair and service whereas otherwise allowed, at 263 South Main ST, Building 9, Units 3 and 4, 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. Spector-Morgan opposed the application as not meeting the hardship criteria

Adopted Findings of Fact:

1. *The variance will not be contrary to the public interest.* "The industrial park behind 263 South Main St currently has numerous automotive repair facilities across the multiple buildings, 6

currently. Some of the current 6 automotive business are historical but others are newly opened within the past year or two. The units in question for this variance once house small engine repair and auto repair due to previous equipment found on site. The owner of the business, JEFKEL Inc. also owns Garry's Service Center at 323 South Main St, it is a clean and reputable fixture of South Main St. for 20 years. Garry's was founded in the same units in question for this variance back in the late 1970's. JEFKEL Inc. has also leased a large fenced area to park vehicles as they cycle through the repair process rather than parking them out of the way of traffic or fire lanes. Allowing this location to open will give Concord the second school bus inspection station in the Concord area, the first being Garry's Service Center on South Main St. Unfortunately Garry's Service Center can not lift some of the larger school buses for inspection purposes so these transportation companies have to travel even further for this required service. With the yearly motor vehicle inspections no longer being required even fewer school bus and commercial vehicle inspection stations will be available as shops will drop this specialized licensed service. This shop is open M-F business hours and minimal noise is produced when we are opened. The noise and light levels from the area will not increase. Customer traffic volume through the shop is about 5 to 7 vehicles per day and three employees."

2. *The spirit of the ordinance is observed by granting the variance.* "The general industrial park where this variance is requested currently is occupied by many auto repair shops and this shop would be visually an undetectable addition to the current businesses. As the current occupier of these units and committing to a separate lease on a gated area the business would essentially eliminating congestion down in that area. Our business model, working on commercial fleets, and only servicing 5 to 7 vehicles per day ensures we have few if any vehicles stacking up in our parking areas, this is dramatically different than typical repair shops with maybe 20 or 30 cars in the parking lot at any given time. Over the weekends we often have few if any vehicles parked outside. Our business model make us inherently cleaner and exhibits a much tidier appearance. Less vehicles stored around the parking lot the safer the parking lot and that is more so in the winter."

3. *Substantial justice will be done by granting the variance.* "This would allow the expansion of a current and long term business on South Main St which by chance was founded in the building in question at 263 South Main St, Garry's Service Center. It will not impact abutters with either additional traffic light or noise pollution, if in fact decreasing this from the previous tenant. It will decrease the traffic flow in and out of 323 South Main St where Garry's Service Center is located as part of that daily business will go to this new location, 5 to 7 vehicles. Currently up to 30 customers per day are serviced at Garry's Service Center, translating into over 200 arrivals and exits off of South Main St into that parking lot when accounting for deliveries and employees. Noise and traffic levels will decrease in a more heavily residential neighborhood while minimal if no impact will be created in a more industrial populated zone. The allowed use would be consistent with businesses within the same buildings. I am requesting this variance after outfitting three professional repair bays without the knowledge that a variance would be required. It was not outline in my lease and I frankly didn't think to inquire due to the neighboring auto repair shop. To date I've invested over \$300,000 in new equipment and site renovations, all of it out of a small company cash reserves. This expansion of the greater company has allowed me to hire three additional professionals to repair vehicles. These are good paying career jobs that entire families live on. These are the types of jobs that our community needs. These employees are all local people. Trying to find a suitable facility in the Concord area meeting my specific requirements (bay door heights, bay lengths in order to service commercial vehicle and school buses is almost impossible to find at a lease rate that make a business make sense). It was a multi year search to find this location. Having to move this site will more than likely end this venture, at least in the Concord area. Terminating my lease may or may not be possible but certainly will not be an easy issue to deal with. Prolonged payment of a lease in an unusable spot along with the depletion of

cash reserves to open this location will certainly harm JEFKEL Inc. financially and jeopardize the two other repair shops and 20 employees that make up JEFKEL, Inc as a company.”

4. *The values of surrounding properties will not be diminished.* “Granting this variance would not decrease the value of the surrounding properties or have any negative environmental impact. Traffic coming and going from this busy commercial business park will not increase over the previous tenant in this location. The actual amount of vehicles in the general parking lot will decrease as we've lease a separate, lockable, fenced in area for any lingering vehicles we are working on or storing for a short period of time(days/weeks) during repairs. No additional buffers are proposed as adequate existing buffers are in place for surrounding properties. Additionally this business is the same as up to 6 other shops in the business park at 263 South Main St and will not interfere with any of the other businesses in the area. The overall site has already been markedly improved with the removal of old equipment and clutter from previous tenants. The units in question have been markedly improved with facilities upgrades like electrical upgrades, now plumbing upgrades in planning process, and new signage. No construction is needed and the outside of the property will not physically change but will visually improve.”
5. *Denial of the variance would result in unnecessary hardship because:* “The particular property in question is uniquely suitable to the business needs due to the following: The size of the overhead repair bay doors has to be large enough to fit larger trucks such as utility bucket trucks, school buses and large service vans. The vast majority of rent-able space with bay doors simply are not big enough to fit the types of vehicles we work on. We also require long repair bays in order to work on trucks and school buses, unless you are going to a large dealership virtually no facility has repairs bays long enough for our work. These bays also have to be flush to the ground, we can not use a typical warehouse with truck unloading bays as they are 5 feet off the ground level. This location is one of the very few options and only one I've come across which is available in many years of looking.”
- 4.2 Nathaniel Nieva requests approval for a variance from Section 28-4-1(e) *Maximum Lot Coverage*/(h) *Table of Dimensional Regulations* to permit 14% lot coverage where 10% is the maximum otherwise allowed for construction of a shed, at 53 Broad Cove Drive, in the Open Space Residential (RO) District. Not a development of regional impact. (ZBA 0323-2025)

Nathanial Nieva (53 Broad Cove Dr, Concord) is present to represent this application. Mr. Nieva is a first-time home buyer and new to Concord. The house is from the 1930's and it is on a small plot of land. The issue they have is storage there is no basement it is a wet dirt floor crawl space and there is no attic. The plan is to get a shed for storage. Mr. Nieva stated with the house and the driveway they are at 13% for lot coverage and he is asking for 1% variance for lot coverage so he can build a shed.

Chair Carley asked the for dimensions of the shed.

Mr. Nieva stated it is 10 by 16.

Chair Carley asked if it is drawn to scale on the map.

Mr. Nieva pointed out the shed location and it will be about 75 feet from the road and about 10 feet from his neighbor's property.

Alternate Member Perkins asked about the side setback for that area.

Mr. Nieva noted this is a gully and considered no man's land.

Member Winters noted there is a long driveway.

Alternate Member Perkins asked if it predates the zoning requirements.

Ms. Skinner responded it does.

Chair Carley asked if there is any member of the audience that would like to speak in favor of this application, in opposition, Planning Division staff and with none. Chair Carley asked Alternate Member Davie to participate and make it a five-member Board. Chair Carley closed the public hearing.

Member Spector-Morgan has no issue with it because it will not be contrary to the spirit of the ordinance or public interest because it will not alter the character of the neighborhood or surrounding lots have sheds. There is no gain to the public in denying this application because the property is already non-confirming with adding 1% of lot coverage. It will not diminish surrounding property values for a small shed. The lot is small compared to the surrounding properties. It does have a big driveway for such a small lot and house.

Alternate Member Davie has nothing to add.

Member Winters agrees.

Member Wallner responded ditto.

Chair Carley agrees with his colleagues.

On a motion made by Member Spector-Morgan, seconded by Alternate Member Davie, the Board **with a vote of 5 in favor (Davie, Wallner, Winters, Carley, Spector-Morgan) to 0 opposed, the Board granted the variance Section 28-4-1(e) Maximum Lot Coverage/(h) Table of Dimensional Regulations to permit 14% lot coverage where 10% is the maximum otherwise allowed for construction of a shed, at 53 Broad Cove Drive**, 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.* "My home is tucked away and is greatly hidden from public view, most of my property sits much higher than the road. I only have two neighbors within eyeshot (one of which I can barely see through the woods, the other has several cars, and structures in their yard (I would be shocked if they cared if I had a shed built). The shed has been designed to match the color of my house. Most of my neighbors have sheds (several of them have multiple sheds) - meaning I do not believe a shed should be inconsistent with the character of the existing neighborhood). It will not cause traffic congestion. It is being built by a professional company to code so it should not create safety concerns. I recently moved to Concord with my fiancé for work. I am an orthopedic PA and my fiancé is a nurse (we both work at Concord Hospital). I am a first time home buyer. We bought the house with the expectation of eventually building an addition (nothing crazy, but a third small bedroom and an additional full bath (currently 2 bed, 1 bath home). We are hoping for children in the upcoming years. We closed on July 25th. We applied for a building permit for a shed for storage, this was rejected due to variance issues. We were unaware we lived in a zone where we could only build on 10% of the land. Evidently with the home and driveway, we are already at 13%. That being said, I believe I only need 1% variance to have my shed built, so I am requesting 14% variance."

2. *The spirit of the ordinance is observed by granting the variance.* “As stated in section 1, I only have two direct neighbors (within view). I do not believe a shed would negatively affect my abutters. I closed on this home on July 25th. I was unaware of the 10% build restriction in the zone I live, I was also unaware that the property was already at 13% build capacity (3% over). I do not have a basement or an attic. I do have a wet crawlspace (I was quoted \$19,973.50 from Erikson Foundation Solutions to seal the basement). I am working to save money for this, but even then, the crawlspace is so narrow it is not the ideal space for storage). The plan was to have the shed built for storage. The permit was denied due to zoning. If I can't have a shed built, I can always store things in the yard under a tarp, which the neighbors may not love.”
 3. *Substantial justice will be done by granting the variance.* “It would give my fiancé and myself a place to store our things.”
 4. *The values of surrounding properties will not be diminished.* “It is being professionally built and looks great. I am not judging or trying to be a jerk by saying this, but when driving through my street, half the homes have tarps in the yards, or several old (out of service) vehicles, or just plain junk in the yard. I do not think a custom built shed which is being designed to match the house will diminish value, I would hope it would add to it.”
 5. *Denial of the variance would result in unnecessary hardship because:* “We are first time home buyers and are already cramped due to lack of storage. At this time we cannot use our second bedroom and our dining room is full of moving items. If rejected, so be it, but we may have to look to move (we just moved in) as there is no long storage solution with no attic or basement.”
- 4.3 Society for the Protection of New Hampshire Forests requests approval for a variance from Section 28-3-3(e) *Buffer Requirements in the SP District* to permit permanent disturbance of a shoreland protection buffer for the installation of a trail where such disturbance is not otherwise allowed, at 52-54 Portsmouth Street, in the Open Space Residential (RO) District. Development of regional impact. (ZBA 0324-2025)

Ms. Skinner stated it is a development of regional impact due to its proximity to the water.

Chair Carley asked if there was any regional notification done.

Ms. Skinner responded yes.

Member Winters asked who gets it.

Ms. Skinner stated the Central Regional Planning Board and they provided no comment.

Member Spector-Morgan asked if the Conservation Commission received this application. Ms. Skinner said she is not sure if the Conservation Commission has reviewed the proposal.

Dylan Summers (54 Portsmouth St, Concord) is in attendance to represent the application. Mr. Summers submitted an updated site plan based on dimensional requirements (this will be added for the record at the end of the meeting minutes).

Mr. Summers stated the project is upgrading a portion of the trail system on the Merrimack River outdoor education and conservation area. Also, called a flood plain. To be an all person's trail. One that is fully accessible to people with wheelchairs and mobility disabilities. The project will upgrade a quarter of a mile of the trail to meet accessible trail standards from the parking lot on Portsmouth St to

an open view point near the banks of the Merrimack River. They are utilizing federal design standards for accessible trails to ensure they are meeting the highest standard for accessibility. Almost all of the trail upgrades will occur within the existing trail line. There will be no additional disturbance to wetlands or shoreline buffers in the area. At the end of the trail where it comes out to an open meadow with views of the Merrimack River they are asking for a variance to create a small addition for the existing trail to create a turn around for mobility devices and space for two accessible benches. This would create an area where all trail users have a place to sit, rest and enjoy the scenic qualities of the Merrimack River. To create this area within a clean view of the river it will require an additional disturbance of roughly 255 square feet inside the 70-foot natural vegetative buffer that is outlined in article 28-3-3(e). The conditional use permit to create a new disturbance to a buffer is only allowed for a few very specific uses they do not qualify for and requesting the variance to create no more than 255 square feet of disturbance inside of the vegetative buffer. The design of the proposed trail addition continues to maintain a 50-foot buffer to the Merrimack River. It will prevent run off from the new trail reaching the river. There will be erosion control during construction and the small scale of the impacted area should minimize any impact on the new trails will have on the water quality. The spirit of the shoreline protection will be observed and meeting statutory requirements. The intention of the project is to benefit the public to make the trails more accessible to access nature. Mr. Summers stated besides paved paths in city parks, the only other accessible trail in Concord is the NH Audubon McClain Center trail. It will expand options for people with disabilities to access natural spaces. The trail is close by to the Haven Wood Heritage Heights, which is a retirement community, whose residents can benefit greatly from a nearby accessible trail. In addition, the Concord Elementary School utilizes this trail for science field trips. They bring 150 to 200 students a year. The accessible upgrades will make it easier for children with disabilities to participate in those field trips. Mr. Summers read the criteria submitted with the application to the Board.

Alternate Member Perkins noted it is an irregular lot which makes it a bit of a hardship. Alternate Member Perkins knows the land and it is sloped quite a bit. Alternate Member Perkins asked if trying to find the space for the path is best to stay with where they are planning.

Mr. Summers responded correct.

Alternate Member Perkins stated the land itself does come with a hardship because of the slope.

Mr. Summers responded absolutely, there is a bluff in a large portion of the lot that then tapers down to the low lands along the edge of the Merrimack River. The existing trail system he included it as part of the application overview that shows the existing trail system. Mr. Summers stated this trail skirts between the steep area and the wetlands that regularly flood.

Member Winters asked about the organization and their holdings.

Mr. Summers stated it is the Society for Protection of New Hampshire Forests was founded in 1901 with a mission of protecting and conserving land across New Hampshire. Mr. Summers noted their mission has changed in form to include direct conservation where they own land in fee. They own 200 properties across the State of New Hampshire. Along with about 700 conservation easements that they hold on private land across the state. It is about 66,000 acres they own across the State of New Hampshire. Mr. Summers noted this property has been owned by the Society since the 1970's. Their offices sit above on the bluff of the conservation area. There is several miles of trails that sit below their office. There is a parking area on Portsmouth St.

Chair Carley asked if there is any member of the audience that wishes to speak in favor of this appeal.

Janey Zeller (149 East Side Dr, Concord) has been on the trail and it is a challenge with rocks and roots. The trail service needs to be improved. They are improving within the foot print of the trail. Ms. Zeller

stated there is an area by the river that would have a firm and stable surface for people with wheelchairs will have a spot to pause and enjoy the river view without negatively impacting the river bank. The firm and stable surface of that space will facilitate the turning of wheel chairs or other mobility devices. The work by the river will serve a public benefit that outweighs the small disturbance within the shore line buffer. Ms. Zeller supports the work and would ask the Board to grant the variance.

Sam Boduck (147 School St, Concord) is a new resident of Concord. Mr. Boduck is a trail steward for the Forest Society. Mr. Boduck has worked on the flood plain. Mr. Boduck is an uncle of two children with mobility disabilities. Mr. Boduck noted getting outside is one of the most effective things to do to improve your mood and outlook. Mr. Boduck stated from those three perspectives he has seen the ability and the light that comes to people when they step out on the flood plain. Mr. Boduck would like to encourage you all to approve this variance request.

Chair Carley asked if there is anyone else that would like to be heard, any comment from Planning Division and with none declared the public testimony closed.

Alternate Member Perkins stated there is hardship that comes with the land. Alternate Member Perkins knows the area well, due to being a neighbor to it. Alternate Member Perkins would want to approve this to make more accessible for those with mobility challenges.

Member Spector-Morgan stated expanding the trail this minimal amount in the buffer is not going to be contrary to the public interest or spirit of the ordinance. It will not harm the public health, safety or welfare. Member Spector-Morgan does not see any benefit to the city from denying the variance. Member Spector-Morgan does see the detriment to the property owner and the public in denying the variance. There will be no diminishing of property values. Member Spector-Morgan does see the hardship where the trails currently exist and they do not want to cut new trails but stay with the existing trails. Member Spector-Morgan would be in favor of granting the variance.

Member Winters stated the purpose of the ordinance is for conservation purposes. In a way by allowing a minimal violation to it is improving general conservation because it is allowing the appreciation to be expanded to greater group of people who may otherwise not be able to enjoy it. Member Winters noted by enhancing the appreciation it improves conservation because it makes people appreciate it more. Member Winters give a lot of deference to this particular group because they are not trying to develop something for profit. Their entire mission is conservation and if they feel the benefits outweigh the Board would be hard pressed to disagree with them.

Member Wallner had no additional comments.

Chair Carley agrees with what his colleagues have said. The Board has also in the past considered inaccessibility itself to be evidence of the physical characteristics of the site to be evidence of a hardship. Chair Carley stated in this case you can make that argument along with all of the other ones that were made.

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, the Board **with a vote of 5 in favor (Davie, Carley, Spector-Morgan, Wallner, Winters) to 0 opposed, the Board granted the variance from Section 28-3-3(e) *Buffer Requirements in the SP District* to permit permanent disturbance of a shoreland protection buffer for the installation of a trail where such disturbance is not otherwise allowed, at 52-54 Portsmouth Street**, 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 variance will not be contrary to public interest because degradation of surface waters resulting from the granting of the variance will be minimal to non-existent, due to the design and limited footprint of the proposed trail addition, as well as the utilization of appropriate erosion control during construction. The proposed trail addition would disturb only a small portion of the 75 foot vegetative buffer zone, and is designed to maintain a buffer of over 50 feet to the reference line of the Merrimack River, which when combine with the gentle topography of the site, will prevent impacts to surface waters. The vegetation that the trail addition would remove is mostly bittersweet, and invasive plant. Additionally, the granting of the variance would provide a significant benefit to the public interest, as our trail improvement project to create an all-persons trail is a desirable development for the community. This project will create an accessible natural area in East Concord, and is in close proximity to Havenwood Heritage Heights, a nearby retirement community, whose residents will be able to enjoy greater access to nature. The proposed trail addition for which we seek a variance will allow us to create a small accessible area at the terminus of the trail, with benches and views of the river, a feature that would be limited if we cannot build outside the existing trail corridor. This accessible viewpoint and destination will enhance the visitor experience significantly, as trail users will be able to access benches, rest, and enjoy the view of the Merrimack River.”
2. *The spirit of the ordinance is observed by granting the variance.* “As stated in 28-3-3 (a) “The (Shoreland Protection) District is established for the purpose of protecting the surface waters of the City from degradation.” Section 28-3-3 (e) elaborates on that purpose specific to the implementation of natural vegetative buffers. As we established in question 1, the granting of the variance would cause minimal to no impact on surface waters, thanks to the limited scope of the trail addition, and a proposed design that minimizes the impact on surface waters while achieving its goals. In section 28-3-3 (a)(7) the ordinance also elaborates that the Shoreland Protection district intends to “Conserve and protect natural beauty and scenic qualities, and the economic benefits that these provide to tourism.” Our project would support this goal of the ordinance. Improvements to infrastructure that allow the public to better enjoy natural beauty and scenic qualities will contribute to the economic benefits from tourism, while having no negative impacts on scenic qualities. The cumulative impact of granting variances for small, well-planned additions to existing recreational trails on other conservation land along the Merrimack River in Concord would not be substantial.”
3. *Substantial justice will be done by granting the variance.* “The benefit to the public of increased access, particularly for people with disabilities, greatly outweighs the minimal to non-existent impact the proposed variance would have. Often people with physical disability are excluded from accessing scenic natural spaces due to infrastructure that is not designed with their needs in mind. This trail addition will allow for visitors with disabilities to access a scenic view of the Merrimack River in an area which they may otherwise have difficulty getting to.”
4. *The values of surrounding properties will not be diminished.* “This project will be built well within our large lot, far away from abutting properties, and therefore will not interfere with the use or value of surrounding properties. The purpose of this project is consistent with the existing use of our property and would not substantially change the impact this existing use has on abutting properties.”
5. *Denial of the variance would result in unnecessary hardship because:* “i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and ii. The proposed use is reasonable Due to the location of the existing trails in this area of the property, which utilizes old roads from when the area was farmland, improvements that stay within the existing trail corridors would make scenic views of the Merrimack River limited for visitors who need to rely on accessible trail infrastructure

or others who want to use the space we are improving, representing an unnecessary hardship for those visitors. The proposed variance represents the best balance between the reasonable use of visitors needing accessible accommodations and minimizing the disturbance to the natural resources of the property and the Merrimack River.”

5. **Review and acceptance of minutes from August 6, 2025 and September 3, 2025**

Member Winters moved, seconded by Alternate Member Davie, to approve the meeting minutes from August 6, 2025, as written. The Board voted 6 in favor (Carley, Davie, Perkins, Spector-Morgan, Wallner and Winters) to 0 opposed. The motion passed unanimously.

The September 3, 2025 meeting minutes will carry over to the November meeting due to one of the three members that were in attendance not being present at tonight’s meeting.

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

- Findings from Monahan, Wallner, and Winters for denial of ZBA 0319-2025 (front, rear, side setbacks variance at 32 Federal Street)

Ms. Skinner stated Member Winters made the motion and Member Monahan seconded for the setbacks to be approved at 32 Federal St. Ms. Skinner noted they want to build a duplex. Member Winters and Member Wallner voted in favor of that motion and Member Monahan voted against it. Ms. Skinner stated because there was only three members you need all three members to vote unanimously for the motion to pass. The motion failed but it was a motion to approve. Ms. Skinner noted the motion to approve failed and they needed a motion to deny. Ms. Skinner noted the case is still open. Ms. Skinner spoke with the acting city solicitor and he said for the board to reconvene to do some findings with the same three people. Ms. Skinner stated Member Monahan is not here tonight and so we cannot do that and that is why it is on the agenda because she did not know Member Monahan was not going to be here. Ms. Skinner stated they need a motion and findings of why it is denied. Ms. Skinner noted that was the original intent of the motion. Since then, the property owner has requested a rehearing on both variance applications. Ms. Skinner reached out to the city solicitor before this meeting to provide an update on the situation and he said because the motion to approve failed, the case is still open and the cleanest way to resolve it would be to have the rehearing for that one. Ms. Skinner stated the request for the rehearing for that one will be next month.

Member Spector-Morgan stated she would agree with that.

Ms. Skinner stated the owner does reference the fact that something from the New Hampshire constitution and his rights because of the way it was handled on that particular one. Ms. Skinner noted the other one would fall under the normal procedure for accessing whether or not it meets the burden for a rehearing.

Chair Carley stated one of the criteria for granting a rehearing is an error in procedure.

Member Winters asked if that motion is in front of the Board right now.

Member Spector-Morgan responded no.

Member Winters asked if they are going to be filing one.

Ms. Skinner stated they already did. Ms. Skinner noted they filed it today. It will be in the November meeting. The request is not the hearing. It is the request for the rehearing. The request will be in November provided they grant the request and the rehearing would be in December. Ms. Skinner noted there are two different variances. There will be two different items on the agenda.

Member Winters asked what the variances are for.

Ms. Skinner responded lot coverage and frontage.

7. **Adjourn**

On a motion made by Member Winters, seconded by Member Wallner, the Board unanimously voted 6 in favor (Carley, Davie, Perkins, Spector-Morgan, Wallner and Winters) to 0 opposed to adjourn at 6:59 p.m.

Respectfully submitted,

Krista Tremblay

Krista Tremblay

Administrative Technician III

MROECA Accessibility Upgrades Shoreland Protection Variance Site Plan

Shoreland Area

75 foot natural vegetative buffer

Reference Line and 50ft Buffer

Trails

Existing trail with compacted natural surface, to be resurfaced to width shown with crushed stone

New area to be built as crushed stone surfaced trail

Existing trails or woods roads with compacted natural surface that will not be resurfaced

0 5 10 20 30 40 50 Feet

Prepared by:
Dylan Summers
08/29/2025

