



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

January 7, 2025
MEETING MINUTES - DRAFT

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

Absent: Member- Nicholas Wallner, Member- Andrew Winters, and Alternate Member-Craig Walker

Staff: Stephanie N. Verdile, Assistant City Planner-Zoning
Krista Tremblay, Administrative Technician III
Kearsten O'Brien, Senior Planner

1. Call to order

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

2. Chairperson's comments

Chair Carley asked Alternate Perkins to sit in on all cases tonight to make it a four-member Board. Chair Carley stated the second applicant (4.2-4.10) has withdrawn their application. Chair Carley asked the applicant (4.1) if they wish to have a five-member Board and the applicant agreed to a four-member board and will not be able to have grounds for a rehearing. The applicant agreed to a four-member Board.

3. Public meetings

None.

4. Public hearings

- 4.1 Mark C. Sargent of Richard Bartlett & Associates, LLC on behalf of property owners Douglas and Patricia Hicks, requests a variance from Article 28-4 Development Design Standards, Section 28-4-1(d) Minimum Yard Requirements/Front Setback (h) Table of Dimensional Regulations the property is known as Tax Map Lot 28/Z 34 located at 131 Shaker Road in the Medium Density Residential (RM) District. (ZBA-0357-2025)

Mark Sargent is present to represent this application.

Chair Carley stated there was considerable discussion in advance of this case as to whether or not a variance was required. The Board received a copy of a brief opinion from the city solicitor who concluded that it was required. Chair Carley noted Planning Division was correct in deciding that a variance is necessary even though the building exists in the setbacks. Chair Carley asked if it is the consensus of the Board that they agree and it should be heard as a variance.

The Board (Perkins, Spector-Morgan and Monahan) responded yes.

Mr. Sargent stated the property has an area of 14.73 acres. There is almost a 1000 feet of frontage on Shaker Rd. It is located just north of the Shaker School owned by the Hicks Family. The Hicks are proposing a subdivision in the upper right-hand corner on the northern portion of the property they would like to cut off a lot for a single-family residence. The new parcel will meet all of the requirements for area frontage, buildable and usable areas. The need the variance because the regulations require anytime anything is done to the property it loses all grandfathering. The existing home is 13.8 feet off the right of way on Shaker Rd. The house was built in 1771 and the road was not laid out until 1838. Mr. Sargent noted he is not sure if the road is encroaching on the house or the house encroaching on the road. Mr. Sargent read from the criteria submitted with the application materials.

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.

Alternate Member Perkins does not have a problem approving this a small encroachment as the applicant stated the house was there prior to any rules.

Member Spector-Morgan agrees and they are just drawing a line on a map.

Member Monahan has nothing to add.

Chair Carley has nothing to add

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, with a vote of 4 (Carley, Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed, the Board vote to ***grant the variance from Article 28-4 Development Design Standards, Section 28-4-1(d) Minimum Yard Requirements/(h), Front Setback, Table of Dimensional Regulations*** because all of the criteria under RSA 674:33 have been met based on the record before us, and to adopt the applicant's proposed findings as the Board's findings of fact."

1. *The variance will not be contrary to the public interest.*

"The encroachment upon the front yard setback pre-dates zoning, the request will not increase the non-conformity."

2. *The spirit of the ordinance is observed by granting the variance.*

"Because the structure pre-dates zoning and the front building that encroaches the front yard setback is a small portion of the overall structure, with approximately 34' of the front yard line from the closest point of the building to the edge of pavement of Shaker Road, the spirit of the ordinance will be observed. All other dimensional requirements will be observed."

3. *Granting the variance would do substantial justice*

"Granting the variance will permit the parcel to be subdivided, creating one new lot for a single-family residence, on a property that greatly exceeds all other dimensional requirements."

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

"The encroachment is existing and has been in place for decades. Granting the variance or denying the variance will not change the status of the encroachment. The parcel to be created as a result of the variance will meet all the zoning requirements and thereby not diminishing surrounding property values."

5. *Unnecessary Hardship*

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

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

“i: The subject building was built in the 1700’s, which distinguishes it from most other properties in the area. Applying a dimensional requirement, that did not exist at the time of the construction, is unreasonable and there is no fair relationship between modern zoning requirements and buildings over 200 years old.” *and*

ii. *The proposed use is reasonable*

“ii: The existing use, single-family home, will not change the resulting lot, if the variance is granted, is a reasonable use.”

B. *Explain how, if the criteria in subparagraph (A) above are not established, an unnecessary hardship will be deemed to exist, if and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

“Because the lot pre-dates zoning the only way the parcel, which greatly exceeds all other dimensional requirements, could be further subdivided would be to relocate the existing building. Creating an additional single-family parcel is a reasonable use that cannot happen with a strict conformance to the ordinance.”

4.2 On behalf of the property owner Rolling Group LLC, Deyve Docarmo requests a variance from *Article 28-4 Development Design Standards, Section 28-4-5(d)(1) Minimum Tract Requirement* to allow 6,500.98 square feet where the minimum of 25,000 square feet is required to convert a Rooming/Boarding House into 13 apartments. The property is known as Tax Map Lot 7414/Z 73 located at 21-23 Fayette Street, in the Downtown Residential (RD) District. (ZBA 0348-2025).

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, with a vote of 4 (Carley, Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed, the Board vote to accept the withdrawal of the cases 4.2-4.10 as requested by the applicant.

4.3 On behalf of the property owner Rolling Group LLC, Deyve Docarmo requests a variance from *Article 28-4 Development Design Standards, Section 28-4-1(h) Table of Dimensional requirements and 28-4-1(c) Minimum Frontage* to allow 55 feet of frontage where 75 feet is required is to convert a Rooming/Boarding House into 13 apartments. The property is known as Tax Map Lot 7414/Z 73 located at 21-23 Fayette Street, in the Downtown Residential (RD) District. (ZBA 0349-2025).

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, with a vote of 4 (Carley, Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed, the Board vote to accept the withdrawal of the cases 4.2-4.10 as requested by the applicant.

4.4 On behalf of the property owner Rolling Group LLC, Deyve Docarmo requests a variance from *Article 28-4 Development Design Standards, Section 28-4-1(h) Table of Dimensional requirements; 28-4-1(e) Maximum Lot Coverage, and 28-4-5(d)(2)* to allow for 68% lot coverage where 60% is maximum allowed in order to convert a Rooming/Boarding House into 13 apartments. The property is known as Tax Map Lot 7414/Z 73 located at 21-23 Fayette Street, in the Downtown Residential (RD) District. (ZBA 0350-

2025)

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, with a vote of 4 (Carley, Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed, the Board vote to accept the withdrawal of the cases 4.2-4.10 as requested by the applicant.

- 4.5 On behalf of the property owner Rolling Group LLC, Deyve Docarmo requests a variance from *Article 28-4, Section 28-4-5(d)(2) Maximum Density*, to allow 13 apartment units where only two are allowed to convert a Rooming/Boarding House into 13 apartments. The property is known as Tax Map Lot 7414/Z 73 located at 21-23 Fayette Street, in the Downtown Residential (RD) District. (ZBA 0351-2025).

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, with a vote of 4 (Carley, Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed, the Board vote to accept the withdrawal of the cases 4.2-4.10 as requested by the applicant.

- 4.6 On behalf of the property owner Rolling Group LLC, Deyve Docarmo requests a variance from *Article 28-4, Section 28-4-5(d)(3) Building Dimensions and Separation* to permit 24 feet in building separation where 40 feet is required to convert a Rooming/Boarding House into 13 apartments. The property is known as Tax Map Lot 7414/Z 73 located at 21-23 Fayette Street, in the Downtown Residential (RD) District. (ZBA 0352-2025).

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, with a vote of 4 (Carley, Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed, the Board vote to accept the withdrawal of the cases 4.2-4.10 as requested by the applicant.

- 4.7 On behalf of the property owner Rolling Group LLC, Deyve Docarmo requests a variance from *Article 28-4, Section 28-4-5(d)(3) Building Dimensions and Separation* to permit 0-foot separation between buildings and driveways where 15 feet is required to convert a Rooming/Boarding House into 13 apartments. The property is known as Tax Map Lot 7414/Z 73 located at 21-23 Fayette Street, in the Downtown Residential (RD) District. (ZBA 0353-2025).

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, with a vote of 4 (Carley, Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed, the Board vote to accept the withdrawal of the cases 4.2-4.10 as requested by the applicant.

- 4.8 On behalf of the property owner Rolling Group LLC, Deyve Docarmo requests a variance from *Article 28-4, Section 28-4-5 (d)(4) Private Yards Required* to not provide the required private yards to convert a Rooming/Boarding House into 13 apartments. The property is known as Tax Map Lot 7414/Z 73 located at 21-23 Fayette Street, in the Downtown Residential (RD) District. (ZBA 0354-2025).

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, with a vote of 4 (Carley, Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed, the Board vote to accept the withdrawal of the cases 4.2-4.10 as requested by the applicant.

- 4.9 On behalf of the property owner Rolling Group LLC, Deyve Docarmo requests a variance from *Article 28-4, Section 28-4-5 (d)(5) Perimeter Buffer Required* to not provide the required perimeter yard buffer to convert a Rooming/Boarding House into 13 apartments. The property is known as Tax Map Lot 7414/Z 73 located at 21-23 Fayette Street, in the Downtown Residential (RD) District. (ZBA 0355-2025).

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, with a vote of 4 (Carley, Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed, the Board vote to accept the withdrawal of the cases 4.2-4.10 as requested by the applicant.

- 4.10 On behalf of the property owner Rolling Group LLC, Deyve Docarmo requests a variance from *Article 28-4, Section 28-4-5(i) Parking Requirements* to only provide eight (8) parking spaces rather than the 13 spaces that are required to convert a Rooming/Boarding House into 13 apartments. The property is known as Tax Map Lot 7414/Z 73 located at 21-23 Fayette Street, in the Downtown Residential (RD) District. (ZBA 0356-2025).

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, with a vote of 4 (Carley, Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed, the Board vote to accept the withdrawal of the cases 4.2-4.10 as requested by the applicant.

5. **Review and acceptance of minutes from [September 3, 2025](#), and [December 3, 2025](#)**

The September 3, 2025 meeting minutes will carry over to the February meeting due to two (Wallner and Winters) of the three members that were in attendance not being present at tonight's meeting.

The December 3, 2025 meeting minutes will carry over to the February meeting due to the Board not having read the minutes and moved to the February meeting.

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

Election of Chair for 2026

On a motion made by Member Spector-Morgan, seconded by Alternate Member Perkins, the Board voted 3 (Perkins, Spector-Morgan, and Monahan) in favor to 0 opposed to elect Member Carley to be the Chair of the Zoning Board for 2026.

On a motion made by Member Spector-Morgan, seconded by Member Monahan, the board voted 4-0 to elect Member Wallner to be Chair pro tem for 2026.

Board Term Appointments

Ms. Verdile updated the board members on their upcoming re-appointments. With members: Carley, Wallner, Winters, and Alternate Perkins being decided at the January City Council meeting and members Spector-Morgan and Monahan are scheduled to be decided at the February City Council meeting.

7. **Adjourn**

On a motion made by Member Spector-Morgan, seconded by Member Monahan the Board voted 4 (Carley, Spector-Morgan, Monahan and Perkins) in favor to 0 opposed to adjourn at 6:15 p.m.

Respectfully submitted,

Krista Tremblay

Krista Tremblay

Administrative Technician III