

J.E. BELANGER LAND SURVEYING P.L.L.C.

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July 7, 2025

City of Concord Planning Board
City Hall
41 Green Street
Concord, New Hampshire 03301

**RE: Waiver Requests for McCarthy Family Trust of 2021
Two-Lot subdivision (2025-060) – 227 Garvins Falls Road**

Dear Planning Board:

On behalf of the McCarthy Family Trust of 2021 and in support of the minor subdivision application referenced above, I hereby request the following waivers from the City of Concord Subdivision Regulations:

A waiver to Section 12.08(12), Section 12.08(22), and Section 15.03(1) *Wells, and Septic Systems, Abutting Properties, and Abutting Property* to not show the locations of existing wells, buildings, and septic systems on abutting properties on either the existing conditions plan or subdivision plat.

The topographic and subdivision plans show existing abutting properties where they intersect to subject property and show driveways that are within 75 feet of the property. Due to some of the surrounding lots being on the larger size with homes being fairly distant from the subject property, we feel they would have no impact on this subdivision application. And we were unable to find abutting septic systems due to homes being so far off the right of way of Garvin Falls Road, resulting in not having any impact on this subdivision. Therefore, we are requesting a waiver of the above Sections.

A waiver to Section 15.03(9) and Section 15.03(10), *Access and Driveways and Site Improvements* to not show the location of proposed driveway for the new lot on the subdivision plat.

The topographic and subdivision plans show existing driveways that abut subject parcel along Garvins Falls Road with the exception of one driveway that is very distant from the property. We do not show the proposed driveway for the newly created lot as presently the owner does not know where the house is going to be situated on the lot. The owner is selling the lot and does not plan to build it. Therefore, we would like to request a waiver for Section 15.03(9) and Section 15.03(10).

A waiver for Section 15.03(15), *Other Utilities*, to not show the location and size of proposed underground and overhead nonmunicipal utilities on the subdivision plat.

The topographic and subdivision plans show the existing utilities along Garvins Falls Road and utilities that service the subject property. Not knowing where the proposed residential home will be place on the newly created lot, we are unable to show the proposed utilities that lot. Therefore, we are requesting a waiver from providing the location and size of the proposed underground and overhead nonmunicipal utilities on the subdivision plan.

A waiver for Section 26.01 and Section 26.02, *General Requirements, and Design Standards*.

We would like to request a waiver to show nonmunicipal utilities as part of the construction process, to be reviewed administratively and request a waiver from providing underground utilities.

1. The granting of the waivers will not be detrimental to public the safety, health, welfare or injurious to other property.

The Subdivision Plan has the necessary information to subdivide the property and granting the waivers will not be detrimental to the public safety, health, welfare or injurious to other property. The information on abutting properties is shown to the extent possible, within 75' of the property.

2. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable generally to other property.

Requested improvements are shown if within 75' of the subject property, with the exception of some abutting homes and driveways that are beyond that 75'.

3. Because of the particular physical surroundings, shape or topographic conditions of the specific property involved, an unnecessary hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.

Strict conformance to the requirement would result in making the drawing a scale more than 1" = 40' in order to show improvements beyond the abutting properties that are beyond the 75' from the property line. This would involve more survey work in the field and more work on changing the scale of the plan. This would cause unnecessary hardship while providing little additional value.

4. Specific circumstances relative to the site plan or conditions of the land where a site plan is proposed indicate that the waiver will properly carry out, or not be contrary to the spirit and intent of these regulations.

The plans submitted meet the spirit and intent of the regulations. J.E. Belanger Land Surveying, PLLC has created a 2-sheet plan set providing Sheet 1 Subdivision Plan which will be recorded and Sheet 2 Topographic Plan showing the required information. Some abutting site features are not shown because of their distance from the property lines.

5. The waivers will not in any manner vary the provisions of the Zoning Ordinance, Master Plan or Official Map.

The requested waivers will not in any manner vary the provisions of the Zoning Ordinance, Master Plan or Official Map.

If you have any questions or require additional information, please contact me at 1 (603) 562-0849.

Zachary J. Letourneau
Applicant for McCarthy Family Trust of 2021

























TEST PIT LOG 4.1

CLIENT: McCarthy family trust of 2021
LOCATION: 227 Garvins Falls Road, Concord NH
OBSERVATION DATE: May 20, 2025
OBSERVER: JACQUES BELANGER

PIT NO.		LOT 1				
DEPTH		COLOR		DESCRIPTION		NOTES
2"	10YR	4/1		LOAM LOOSE GRANULAR		CLEARED AREA
7"	10YR	5/2		SANDY LOAM LOOSE GRANULAR		
29"	10YR	8/6		SILTY SAND, LOOSE GRANULAR		
34"	10YR	8/2		SILTY SAND , GRANULAR, FIRM IN PLACE		FEW ROCKS
72"	TOTAL DEPTH OF PIT					
N/O	EST SHWT					

N/O DEPTH TO OBSERVED WATER

PERC RATE <2MIN/INCH AT 36"

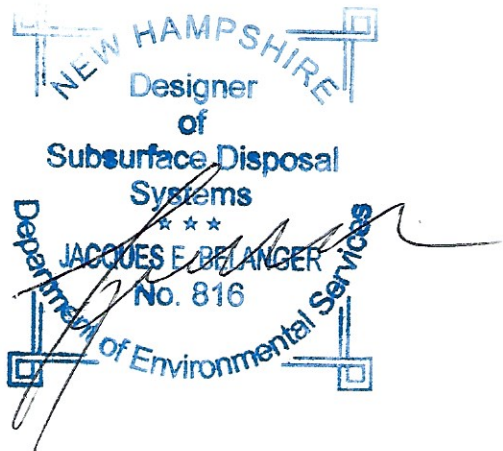
TEST PIT LOG 4

CLIENT: McCarthy family trust of 2021
LOCATION: 227 Garvins Falls Road, Concord NH
OBSERVATION DATE: JUNE 9, 2025
OBSERVER: JACQUES BELANGER

PIT NO. LOT 1					
DEPTH		COLOR		DESCRIPTION	NOTES
12"	10YR	4/2		LOAM LOOSE GRANULAR	CLEARED AREA
7"	10YR	6/8		SILTY SANDY LOAMY SAND LOOSE GRANULAR	
36"	2.5Y	6/4		SILTY SAND, FINE LOOSE GRANULAR	
18"	2.5Y	8/2		SILTY SAND , GRANULAR, FIRM IN PLACE	
72"	TOTAL DEPTH OF PIT				
N/O	EST SHWT				

N/O DEPTH TO OBSERVED WATER

PERC RATE <5MIN/INCH AT 36"



City of Concord, NH
Concord Planning Board
41 Green Street
Concord, NH 03301

**RE: 227 Garvins Falls Road
Map 92Z Lot 4
Minor Subdivision Application
Mccarthy Family Trust of 2021**

May 14, 2025

Dear Chairperson and members of the Planning Board:

Being the applicant for the Mccarthy Family Trust of 2021, I have submitted an application to the Planning Board for a Minor Subdivision approval for land located at 227 Garvins Falls Road, Map 92Z Lot 4 accompanied by a plan entitled Minor Subdivision, Map 92Z Lot 4, 227 Garvins Falls Road, Concord, NH, Merrimack County" dated April 25, 2025, prepared for Mccarthy Family Trust of 2021. Plan has been prepared by J.E. Belanger Land Surveying, PLLC. The original Lot 4 contained 5.81 acres having 350.00 feet of frontage. After the subdivision of Lot 4, the remaining area will consist of 4.81 acres with 200.00 feet of frontage. The proposed new lot will contain 1.00 acres with 24,406 square feet of buildable area. A variance was granted by the Concord Zoning Board of Adjustment that provided for the new lot to have 150.00 feet of frontage where 200' feet is required.

We thank the Board in consideration of this matter.

Very Truly Yours,

Zachary Leterneau

Project Narrative – Minor Subdivision Application

227 Garvins Falls Road, Concord, NH

City of Concord, NH

RE: Minor Subdivision Application

Concord Planning Board

227 Garvins Falls Road – Map 92Z Lot 4

41 Green Street

McCarthy Family Trust of 2021

Concord, NH 03301

May 20, 2025

Dear Chairperson and Members of the Planning Board,

On behalf of the McCarthy Family Trust of 2021, I am submitting this narrative and accompanying documents in support of an application for Minor Subdivision approval for the property located at 227 Garvins Falls Road, Map 92Z Lot 4.

The proposed subdivision is detailed in the plan titled “Minor Subdivision, Map 92Z Lot 4, 227 Garvins Falls Road, Concord, NH, Merrimack County,” dated April 25, 2025, and prepared by J.E. Belanger Land Surveying, PLLC. The current parcel comprises 5.81 acres with 350.00 feet of frontage. The proposal seeks to subdivide a new lot of 1.00 acres, resulting in a remaining lot of 4.81 acres with 200.00 feet of frontage. The proposed new lot includes 24,406 square feet of buildable area. A variance has been granted by the Concord Zoning Board of Adjustment to allow the proposed new lot to have 150.00 feet of frontage where 200.00 feet is typically required.

The parcel is located in a residential zoning district. The proposed new lot is currently vacant and does not contain any structures. It is intended for the future construction of a single-family dwelling. There are no significant natural features within the subdivision area—no steep slopes, wetlands, or environmental constraints that would inhibit development.

In order to support a future home, both private water (well) and private septic systems will be required. These systems have been accounted for and shown on the submitted site plan. A full test pit evaluation is in progress at this time and is expected to be completed shortly following the submission of this application. No state or federal permits are required as part of this subdivision.

The remaining lot will retain its current residential use. No site work or construction will begin until the newly created lot is sold to a builder or future homeowner. Once purchased, development will proceed in accordance with all applicable local standards and requirements.

This subdivision complies with the City of Concord's zoning and subdivision regulations. Aside from the frontage variance, which has already been granted, all other dimensional requirements and applicable provisions have been met.

This project is anticipated to have minimal impact on the neighborhood and surrounding properties. The additional lot will not significantly increase traffic, and the residential nature of the area will be preserved.

Thank you for your consideration of this matter. Please feel free to contact me if any additional information is needed.

Very truly yours,

Zachary J. Letourneau

Principal/Owner, Letourneau Land Management, LLC

Agent for the McCarthy Family Trust of 2021

PLANNING BOARD CITY OF CONCORD, NH MINOR SUBDIVISION CHECKLIST

This checklist is intended to assist applicants and design professionals in the preparation of minor subdivision applications for consideration by the City of Concord Planning Board. The checklist is also intended as an aid to City staff in its review of a subdivision application. Any question about the applicability of any of the items in the checklist to a particular subdivision application should be discussed with a member of the Planning staff at 603-225-8515, before an application is submitted.

The first section lists the plans and documents needed for an application to be complete. The second section lists elements of each of the plans and documents required for an application to be complete. The third section is designed to provide guidance on the items to be completed after conditional Planning Board approval is obtained from the Planning Board to allow for the recording of the approved plat in the Merrimack County Registry of Deeds.

Summary

Name of Subdivision: Minor Subdivision Plan, Tax Map 92/Z Lot 4

Agent's Name(s): Zachary Leterneau

Street Address: 227 Garvins Falls Road Nearest Street(s): US-3, Manchester Street

Map\Block\Lot(s): 92/Z/4 Map\Block\Lot(s): Map\Block\Lot(s):

Zoning District(s): RM & RO Overlay District(s):

Municipal Water Supply Available: Yes No ☒ Municipal Sanitary Sewer Available: Yes No ☒

Range of Lot Frontage: 150.00' to 200.00' Minimum Required Lot Frontage: 200.00' (VARIANCE GRANTED)

Range of Lot Size: 43,560 S.F. to 209,533 S.F. Minimum Required Lot Size: 40, 000 S.F.

Minimum Set Backs Required: Front 25' Back River Side 15' & 40' Shoreland: 250.00'

Part 1: The following documents and plans are needed for an application to be determined complete by the Planning Board.

Documents

✓ An application either signed by all the current owner(s) of the property or signed by an individual authorized by the owner(s) to act as the agent. A letter must be submitted with the application authorizing the individual to act as agent on the owner(s) behalf when the agent signs the application.

✓ The appropriate application fees.

✓ List of the current abutters to the property including those property owners located across streets and streams from the property being subdivided. Please include the name, address, and profession of the professionals responsible for the preparation of the subdivision plans and supporting studies.

GRANTED Requests for any waivers from the Subdivision Regulations if any.

✓ A copy of any variances or special exceptions which have been granted by the Zoning Board of Adjustment.

N/A Where Conditional Use Permits (CUP) are required in conjunction with a proposed subdivision, one (1) hard copy and one (1) digital copy of the complete CUP applications shall be provided for each CUP as set forth in Section 34.

Drawings

- ☒ Five (5) full sized hard copies and one (1) digital copy of the subdivision plat drawings.
- ☒ One (1) set of reductions (8½ x 11) of the subdivision plat drawings.

Part 2: The following standards and items need to be shown on plans in order for a subdivision application to be determined complete.

Layout & Certification

- ☒ The final plat shall be prepared, signed, and stamped by a NH Licensed Land Surveyor in a format suitable for filing in the Merrimack County Registry of Deeds.
- ☒ Minor subdivision plats may be submitted at a scale of 1"=20', 1"=30', 1"=40', 1"=50', or 1"=60' provided that the Clerk of the Board finds the scale to be appropriate for depicting the proper information. In cases of parcels over ten (10) acres in size, the Clerk may authorize the applicant to submit all, or a portion, of a plat at a different engineering scale such as 1"=100' provided all pertinent information can be shown accurately and legibly.
- ☒ North arrow.
- ☒ Bar scale.
- ☒ The error of closure for the subdivision plat shown at a scale of 1"=50' shall not be less than 1 in 10,000.
- ☒ Drawing sheets shall not exceed 22" x 34". Recordable drawings must conform to the requirements of the Merrimack County Registry of Deeds.
- ☒ Certificate of Ownership – Owner's names, addresses, and Book and Page numbers for each separate parcel as listed in the Merrimack County Registry of Deeds.
- ☒ Standard Planning Board approval block.
- ☒ Lot numbers. All lots shall be sequentially numbered. For existing lots, the City Tax Assessor's map-block-lot number, or map-lot number as applicable, shall be used.

Title Block

- ☒ Title of Plan.
- ☒ Name and address of the owner and applicant.
- ☒ Date the plan was prepared and the date of subsequent revisions.
- ☒ Name, address, seal, and signature of the licensed professional who prepared the plan or plat.

Vicinity Plan

- ☒ The location of the subdivision plan shall be shown.
- ☒ Streets, water bodies, city limits, parks, schools, and other significant physical and man-made features shall be shown on the vicinity plan.
- ☒ Scale between 1"=1000' and 1"=2000'.

Location Plan

- ☒ Proposed subdivided property.
- ☒ Property lines existing prior to subdivision applications.
- ☒ Abutter's property lines.
- ☒ Names and locations of nearby and adjacent City streets.
- ☒ Names and locations of adjacent water bodies and watercourses.
- ☒ Names and locations of nearby and adjacent parks, schools, churches, and other significant physical and man-made features.
- ☒ Nearest street intersections.

- ☒ The Tax Assessor's map-block-lot number, or map-lot number as applicable, for abutters and the properties to be subdivided.
- ☒ Zoning district designations and boundaries.
- ☒ Other special information which may be required by the Planning Board.
- ☒ Minimum scale 1" = 400'.

Standard Notes

- ☒ Purpose of the subdivision plan.
- ☒ Certificate of ownership.
- ☒ Tax map-block-lot numbers, or map-lot number as applicable, of the existing parcels.
- ☒ Title reference for Book and Page number of the lot from the Merrimack County Registry of Deeds. Title reference shall not be more than 5 days old at the time of filing.
- ☒ Proposed public or private street names.
- ☒ Plan references for prior recorded subdivisions or surveys on the properties proposed for subdivision or abutting said properties proposed to be subdivided.
- ☒ Addresses for all proposed lots or condominium units.
- ☒ Area of subject parcel(s).
- ☒ Zoning designation of subject parcel(s) including all overlay zones.
- ☒ Minimum lot area, frontage, and setback dimensions required for the zoning district(s) and for wetland buffers, bluff setbacks, the Shoreland Protection Overlay District buffers, and Aquifer Protection Areas.
- ☒ Existing and proposed lot area with useable and buildable lot areas provided for each lot.
- ☒ Tabulation of required useable lot and buildable lot area and calculations.
- ☒ Tabulations of existing and proposed areas of wetlands, bluffs and ravines, steep slopes greater than 15% and greater than 25%, and existing and proposed impervious surface areas for each lot and for the entire subdivision.
- ☒ Plan or deed references for recorded easements, whether public or private, on the properties proposed for subdivision and existing easements on abutting properties, which are for the purposes of providing access, utilities, and drainage to the properties proposed to be subdivided.
- ☒ Deed reference and statement of any existing recorded covenants or restrictions relating to the use of the land proposed to be subdivided.
- ☒ Source of sanitary sewer and potable water supply.
- ☒ Zoning variances and/or special exceptions granted.
- ☒ Flood Insurance Rate Map sheets used to identify 100 year flood elevation and zone designation.
- ☒ If applicable, Flood Hazard Designation along Merrimack River (F1) or (F2) and minimum finished floor elevation.
- ☒ List of required local, state, and federal permits.
- ☒ List of any Planning Board waivers and Conditional Use Permits requested.
- ☒ Note regarding which plans in the plan set are recorded and which plans are available at the City of Concord Planning Division.
- ☐ Provisions for residential sprinklers where required.

Subdivision Plat

- ☒ Existing abutting properties including property lines, buildings, wells and septic systems, owner's name and address, property address, and Tax Assessor's map-block-lot number.
- ☒ The dimensions and bearings of all existing property lines and new property lines to be created.
- ☒ Property lines to be removed must be clearly distinguished from all new and remaining property lines.
- ☒ The areas of each lot in square feet and/or acres for new and existing lots, expressed to the nearest square foot and/or nearest hundredth of an acre. The area of contiguous buildable land shall be noted for each lot and shown on the plat drawing.
- ☒ Useable area rectangle with dimensions for residential subdivisions.

<input checked="" type="checkbox"/>	Zoning district designation and boundaries including overlay zoning districts.
<input checked="" type="checkbox"/>	Locations of any wetlands, wetland buffers, bluffs and ravines, buffers to bluffs, and steep slopes greater than 15% and greater than 25%.
<u>N/A</u>	Flood Hazard areas and boundaries.
<u>N/A</u>	Finished floor elevations and minimum finished floor elevations required within the Floodway or Floodplain Zoning District, if applicable.
<input checked="" type="checkbox"/>	Wetland survey by NH Certified Wetland Scientist, if the presence of wetlands is suspected
<input checked="" type="checkbox"/>	Bluffs and ravines with buffers to bluffs shown.
<input checked="" type="checkbox"/>	Building setback lines and dimensions for all lots including wetland buffers, bluff setbacks, the Shoreland Protection Overlay District buffers, and Aquifer Protection areas.
<input checked="" type="checkbox"/>	The type and location of existing and required monuments (bounds) at the corners of lots, and at points of curvature, tangency, and deflection points along the street rights-of-way.
<input checked="" type="checkbox"/>	The location of existing features such as water courses and bodies, parks, open space, large trees, foliage lines, railroads, buildings, and significant natural and man-made features. Other pertinent features such as, but not limited to, wetlands, cemeteries, and drainage ditches.
<input checked="" type="checkbox"/>	The location of all existing and proposed buildings, structures, fences, stone walls, driveways, parking, and any vehicular use areas.
<input checked="" type="checkbox"/>	The location and dimensions of existing and proposed driveways, curb cuts, parking lots, loading areas, or any other vehicular use areas.
<input checked="" type="checkbox"/>	The location, name, travel way width, and right-of-way of all existing adjacent city streets, as well as mapped future streets.
<input checked="" type="checkbox"/>	Addresses for all proposed lots, uses, or condominium units.
<input checked="" type="checkbox"/>	Standard Planning Board approval block in the bottom right hand corner of the plat drawing (each page).
<input checked="" type="checkbox"/>	Name of the subdivision.
<input checked="" type="checkbox"/>	Indication of the type of residential use of any lot (single-family, two-family, multi-family, townhouse) and all other uses other than residential proposed by the applicant.
<input checked="" type="checkbox"/>	All lots shall be consecutively numbered. Open Space lots shall be lettered in alphabetical order.
<input type="checkbox"/>	The location of existing improvements on the site and on abutting properties including, but not limited to, driveways, parking, buildings and structures, railroads, parks, and other pertinent features as determined by the Clerk of the Board.
<input checked="" type="checkbox"/>	The location of any wells and the NHDES well radii.
<input checked="" type="checkbox"/>	The location of septic tank drainfields and the required 4,000 square foot septic drain field area required by the NHDES.
<u>N/A</u>	For Cluster and Open Space subdivisions the required open space calculations shall be noted on the plan, and the protected open space areas shall be shown on the plan with metes and bound descriptions, bounds provided, and the size of each area noted.
<u>N/A</u>	The location, bearings, and dimensions and purpose of all existing and proposed easements.
<input type="checkbox"/>	Existing topographic conditions and all proposed changes in ground elevation at a contour interval of two (2) feet referred to sea level datum of the US Coast and Geodetic Survey.
<u>N/A</u>	Where the land slopes less than two percent, spot elevations shall be shown at all breaks in grade, along all drainage channels or swales, and at selected points not more than 100 feet apart in all directions.
<input checked="" type="checkbox"/>	The identification and classification of the extent and type of soils using the USDA Soil Conservation Services system, specifically identifying those soils recognized as wetlands and those important for agriculture.
<u>N/A</u>	The location, size, and invert elevations of existing and proposed sanitary and storm sewers including manholes, catch basins, and culverts.
<u>N/A</u>	The location and size of all existing and proposed water mains including hydrants, gates, valves, and blow-offs, and service connections.

<u>✓</u>	The location of wells and subsurface disposal systems, if the property is not served by municipal water and sanitary sewers, including those on abutting property.
<u>✓</u>	The location of all existing non-municipal utilities including electric, telephone, gas, steam, and CATV systems, along with fire alarm cables, both on-site and within abutting rights-of-way.
<u>N/A</u>	The type and location of existing solid waste disposal facilities.
<u>✓</u>	Where municipal sewer service is not available, soil data and test results sufficient to submit an application for subdivision approval to the NHDES including a plan showing the location of test pits, the soil profiles, ground water elevation, and seasonal high water table elevation at each test pit. The required 4,000 square foot septic drain field area required by the NHDES shall be shown.
<u>N/A</u>	The location of existing and required street trees, street lights, street signs, pavement markings, etc.
<u>✓</u>	All existing and proposed driveways along the subdivision frontage, on abutting properties, and on the opposite sides of the street.
<u>N/A</u>	Street tree plantings including location, caliper size, common and botanical names, and planting specifications and details.
<u>N/A</u>	Plants to be preserved and methods to preserve trees during construction.
<u>N/A</u>	Clearing limits.

Part 3: The following documents and plans are required to successfully complete the subdivision process and for the plat to be recorded in the Merrimack County Registry of Deeds.

Documents Needing Approval Prior To Recording

_____	Easement deeds for street rights-of-way, utility, drainage, slope, conservation, or other public easements.
_____	Warranty deed or conservation easements for land set aside as open space.
_____	Agreements to convey easements for private access, utilities, drainage, or other common facilities to be recorded with a future property transfer.
_____	Articles of Incorporation for property owner's association or condominium declaration, etc., which are associated with the property to be developed.
_____	Recording fee in the amount required by the Merrimack County Registry of Deeds.
_____	LCHIP supplementary recording fee required by the Merrimack County Registry of Deeds.
_____	Copies of any approvals or permits required from State and Federal agencies.
_____	Electronic plan submission as set forth in Section 12.08 of the Subdivision Regulations.

Subdivision Plat

_____	Notations of all covenants, easements, self-imposed restrictions, and any other restrictions or notations required by the Board.
_____	Conditions of Planning Board approval which remain to be fulfilled after the recording of the plat.



AnneMarie Skinner, AICP
City Planner

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

April 2, 2025
MEETING MINUTES - DRAFT

Attendees: Alternate Mark Davie, Member James Monahan, Alternate Brenda Perkins, Member Laura Spector-Morgan, Acting Chair Nicholas Wallner, and Member Andrew Winters

Absent: Chair Christopher Carley

Staff: AnneMarie Skinner, AICP, City Planner
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

3. Public meetings

4. Public hearings

- 4.1 Orr & Reno, on behalf of Granite Center, LLC, requests approval for a variance from Section 28-4-1(e) *Maximum Lot Coverage*/Section 28-4-1(h) *Table of Dimensional Regulations*, to permit 89.3% of lot coverage where 85% is the maximum allowed, at Tax Map Lot 6442Z 6, unaddressed Storrs St, in the Opportunity Corridor Performance (OCP) District. Not a development of regional impact. (ZBA 0255-2025)

Acting Chair Wallner asked for Alternate Member Perkins to sit in on this case.

John Arnold (45 S Main St, Concord) is present to represent this application. Mr. Arnold stated that the application relates to the parking lot that is just behind the legislative parking garage. It is a surface lot on the side of Storrs St by the railroad tracks. The parking lot comprises two separate legal lots. The northerly portion is owned by Granite Center, LLC. The southerly portion is owned by the New Hampshire Historical Society. Granite Center, LLC leases the part of the parking lot it does not own from the New Hampshire Historical Society, and the lots operate as one cohesive parking lot. Mr. Arnold stated Mr. Duprey is looking to do a lot line adjustment with the Historical to shift the dividing lot line to the south by 130 feet. Mr. Arnold stated that would add a half an acre of the parking lot from the New Hampshire Historical Society portion to Mr. Duprey's portion (Granite Center, LLC) of the property in the north. There are no physical changes proposed. The parking lot will continue to exist exactly the way it does now. It is just a shift of the lot line. The property is in the Opportunity Performance (OPD) District and in that district the maximum lot coverage is 85%. Mr. Arnold noted

both of the lots today are nonconforming in terms of lot coverage. The Granite Center, LLC lot has 87% and the Historical Society lot has 85%. Mr. Arnold stated with the lot line adjustment they are not adding any impervious surface. The lot coverage calculations for each lot will change slightly because the lot areas are changing. Mr. Arnold noted what this results in the lot coverage on Granite Center, LLC going up to 89.3 % and the Historical Society going down to 86.5%. They are asking for a variance on the Granite Center, LLC side with the increase in lot coverage. The Historical Society side will still be over the 85% maximum but that is decreasing. Mr. Arnold noted this is just a change in a line on paper. There is no actual increase to the impervious surface. The parking lot will remain the way it is in terms of function and appearance. The variance does not create a risk for more lot coverage in the future because both of the lots are nonconforming.

Acting Chair Wallner noted this is a minor lot line adjustment, dealing with less than 3%.

Mr. Arnold stated Granite Center, LLC goes from 87% to 89% and the Historical Society decreases from 88% to 86.5%.

Member Monahan asked if this will change the entry to the parking lot.

Mr. Arnold stated no, there are no proposed changes now.

Acting Chair Wallner asked if there is any member of the audience that would like to speak in favor of this application, or anyone opposed. With no member of the audience wishing to speak on this application, staff was asked for comments. Ms. Skinner had no comments. Acting Chair Wallner closed the public hearing and looked for discussion from the Board.

Alternate Member Perkins did not see any issue with the application.

Member Spector-Morgan stated they are moving a line on a plan and there is nothing changing on the ground.

Member Winters stated it is extremely minor.

Member Monahan stated the lot coverage change is a wash.

Member Winters made a motion to **grant the variance from Section 28-4-1(e) Maximum Lot Coverage/Section 28-4-1(h) Table of Dimensional Regulations**, to permit 89.3% of lot coverage at Tax Map Lot 6642Z 6, unaddressed Storrs St, where 85% is the maximum allowed, 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. Member Spector-Morgan Seconded. The motion passed with 5 in favor (Monahan, Perkins, Spector-Morgan, Wallner, and Winters) to 0 opposed.

Findings of Fact:

1. *The variance will not be contrary to the public interest.* "A variance is contrary to the public interest if "it unduly and in a marked degree conflicts with an ordinance such tht it violates the ordinance's basic zoning objectives." Farrar v. City of Keene, 158 N.H. 684, 691 (2009) (internal quotations omitted). In determining whether a variance would violate basic zoning objectives, the Board should examine whether the variance would alter the essential character of the locality, or whether the granting of the variance would threaten public health, safety, or welfare. Id. Here, allowing the increased lot coverage on Lot 6 will pose no threat to the public safety, health or welfare, or alter the essential character of the locality. The parking lot functions as a cohesive use, even though it is bisected by a lot line. No impervious coverage is

being proposed. The increased lot coverage on Lot 6 results solely from shifting the lot line further to the south within the existing parking lot. The function, appearance, and overall lot coverage of the two lots comprising the parking lot will remain the same.”

2. *The spirit of the ordinance is observed by granting the variance.* “The New Hampshire Supreme Court has determined that the requirement that a variance not be contrary to the public interest “is co-extensive and related to the requirement that a variance be consistent with the spirit of the ordinance.” *Chester Rod & Gun Club v. Town of Chester*, 152 NH 577, 580 (2005). As such, this criterion overlaps with the public interest requirement. For the reasons set forth above, the spirit of the ordinance will be observed. The primary reason for the variance is to allow Granite Center to own, rather than lease, a larger portion of the existing parking lot. The only change will be on paper.”
 3. *Substantial justice will be done by granting the variance.* “Substantial justice is done where granting a variance will not cause harm to the general public that outweighs the benefit to the applicant. See *Malachy Glen Associates v. Town of Chichester*, 155 N.H. 102, 109 (2007). That is the case here, as allowing these variances would cause no harm to the general public. Because the existing parking lot will remain unchanged, the public will not be impacted by the variance. Further, although the lot coverage will increase slightly on Lot 6, it will be reduced on Lot 7. As such, there will be no net change in the overall lot coverage for the existing parking lot. If the parking lot were removed for a new development at some point in the future, the new development on either lot would have to comply with the District’s 85% maximum. In that sense, granting this variance does not create any more lot coverage.”
 4. *The values of surrounding properties will not be diminished.* “Granting this variance will not diminish surrounding property values, for the same reasons cited above. The changes will solely be on paper with the shift of the lot line. To the surrounding observer, there will be no change whatsoever.”
 5. *Denial of the variance would result in unnecessary hardship because:* “The Property is unique in that it is one of two lots comprising an existing parking lot. The existing lot coverage for each of those two lots, and for the parking lot as a whole, is nonconforming. The existing lot line bisects the parking lot, yet the parking lot is cohesive, and is leased and operated by a single entity. Shifting the dividing lot line further to the south allows Granite Center to own, rather than lease, a larger portion of the parking lot, but does not result in any physical change to the Property, or its use. The overall lot coverage for the Property does not change, and the proposed increase on Lot 6 is offset by the decrease on Lot 7. There is no substantial relationship between the limit on lot coverage and its specific application to this property because the overall lot coverage for the Property will not increase. Denying the variance would prevent Mr. Duprey from owning, rather than leasing, a portion of the parking lot, and would serve no general public purpose. Accordingly, the proposed use and variance request are reasonable.”
- 4.2 Zachary J. Letourneau, on behalf of McCarthy Family Trust of 2021, requests approval for a variance from Section 28-4-1(c) *Minimum Lot Frontage*/Section 28-4-1(h) *Table of Dimensional Regulations*, to permit 150 feet of lot frontage for a new lot where 200 feet is the minimum requirement, at Tax Map Lot 92Z 4, addressed as 227 Garvins Falls Rd, in the Medium Density Residential (RM) District and the Open Space Residential (RO) District. Not a development of regional impact. (ZBA 0256-2025)

Acting Chair Wallner asked Alternate Member Mark Davie to sit in on this case.

Zachary Letourneau (253 Page Rd, Dublin) and Kevin McCarthy (227 Garvins Falls Rd, Concord) are

present to represent this application. Mr. Letourneau thanked the City of Concord as they were very helpful during this entire process. Mr. Letourneau stated the only box that cannot be checked is road frontage. Mr. Letourneau called attention to the submitted findings of fact on the first page of the addendum document. Mr. Letourneau listed out 10 different locations in the neighborhood. Some are abutters and some are not. Only three of them are conforming. It would not change the nature or disposition of the neighborhood in any way. Mr. Letourneau stated they want to put a single-family house on the subdivided lot.

Acting Chair Wallner asked for them to touch on the hardship.

Mr. Letourneau read out loud the variance criteria submitted with the application materials that was included in the packet to the Board.

Acting Chair Wallner asked if the Board had questions.

Member Spector-Morgan asked for the lot frontage.

Mr. Letourneau answer 150 feet.

Member Spector-Morgan asked for the total frontage.

Mr. Letourneau stated the line itself would not be straight, but it would not be the required 200 based on the contour of the land.

Member Winters asked if they have a diagram of the new lot line.

Ms. Skinner stated there is a total of 356 feet of lot frontage right now, so the existing house lot will have 200 and the new lot will have the remaining 156.

Member Winters clarified the split zoning of RM and RO and the origination of the 200 feet of frontage requirement.

Ms. Skinner stated that both the RM and RO districts require 200 feet of frontage, and because the new lot is total in the RM District, all of the RM requirements would have applied if the requirement was different between RM and RO.

Member Winters asked if it is a large enough lot for two lots.

Mr. McCarthy stated yes.

Mr. Letourneau further explained that, in order for them to remain in conforming with the driveway distance requirement and keep the existing house lot in conformance with lot frontage, the new lot will be less.

Alternate Member Perkins stated if they moved the lot line, then they would have two nonconforming lots.

Mr. Letourneau stated that is correct.

Acting Chair Wallner asked if there is any member of the audience that would like to speak in favor of or in opposition to the application, and asked staff for any comment. Ms. Skinner had no comments. Acting Chair Wallner closed the public hearing and looked for discussion from the Board.

Member Spector-Morgan stated she has no concerns about it. It will not alter the character of the neighborhood. It appears to be 50 feet short of frontage. There will be safe access to the lot. It appears to be consistent with the surrounding lots. There is no gain to the public in denying the variance. It will not reduce surrounding property values. It is a unique-ish lot and she can get there on the hardship.

Alternate Member Davie stated he agreed with all the above. The applicant has made the case that either one or both lots would be nonconforming.

Member Winters stated he struggles with the frontage in general. They already have setback requirements and maximum lot coverage requirements, so it does not seem like the frontage requirements serve any further purpose in terms of open space. Member Winters noted they are primarily about access to the lot, in which case 200 feet seems like a lot. In this case he does not think the additional frontage while all of the other requirements are met serves any other functional purpose. It will still be in keeping with the character of the neighborhood.

Member Monahan stated he has nothing to add.

Acting Chair Wallner stated he agrees.

Member Spector-Morgan made a motion to **grant the variance from Section 28-4-1(c) Minimum Lot Frontage/Section 28-4-1(h) Table of Dimensional Regulations**, to allow for frontage of 150 feet where 200 feet is required, at 227 Garvins 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 proposed findings as the Board's findings of fact. Alternate Member Davie seconded. The motion passed with 5 in favor (Davie, Monahan, Spector-Morgan, Wallner, and Winters) to 0 opposed.

Findings of Fact:

1. *The variance will not be contrary to the public interest.* "Granting the requested variance aligns with the public interest by maintaining the established character of the Garvins Falls Road neighborhood. The proposed subdivision reflects the existing pattern of development, where several abutting properties also have frontage slightly below the 200-foot requirement. This consistency ensures that the essential character of the locality remains unchanged. For further review & comprehension, the proposed lot would have approximately 150 ft of frontage based on surveyors estimates. There are 9 abutters, the avg frontage for all is: 162 feet. Of those same 9 abutters, 6 are non-conforming. House 228 has 120 ft House 225 has 180 ft House 222 has 75 ft House 220 has 75 ft House 218 has 100 ft House 241 has 146 ft House 219 has 320 ft House 233 has 301 ft House 241 has 146 ft The subdivision will not introduce additional traffic congestion or compromise traffic safety. The creation of a single additional lot for the purposes of constructing a single family dwelling is a minimal change that will not significantly impact the current traffic flow. Moreover, the proposed use is residential, which is harmonious with the existing uses in the area and does not pose any public safety concerns. Furthermore, the development of the new lot will contribute positively to the community by providing an additional housing opportunity, addressing the ongoing need for residential options within the city. This development utilizes the land efficiently without altering the neighborhood's character and disposition or overburdening public infrastructure."
2. *The spirit of the ordinance is observed by granting the variance.* "The spirit of the zoning ordinance is to ensure orderly development that preserves the character of neighborhoods, prevents overcrowding, and provides adequate space for residents. While the ordinance stipulates a 200-foot frontage requirement, the slight deficiency in frontage for the proposed

subdivision does not undermine these objectives. The proposed lot sizes—5 acres and 1 acre—exceed the minimum lot size requirements, ensuring ample space for residential use and maintaining low-density development. The variance sought is minimal and consistent with the existing frontage of neighboring properties, thereby fitting within the essential character of the neighborhood. Granting this variance will not negatively impact abutters or the public. Instead, it will allow for a development that is in harmony with the surrounding properties, providing a public benefit by enhancing the neighborhood with an additional well-planned residence.”

3. *Substantial justice will be done by granting the variance.* “Granting the variance balances the property owner's reasonable use of their land with the public's interest in maintaining the neighborhood's character. The proposed subdivision is consistent with the area's current residential use, where similar lot frontages exist. The benefit to the property owner is significant, allowing for the productive use of their land through the creation of an additional lot. This benefit outweighs any negligible impact on the public, as the subdivision aligns with existing neighborhood patterns and does not introduce any adverse effects.”
4. *The values of surrounding properties will not be diminished.* “The proposed subdivision is designed to be in harmony with the existing neighborhood, featuring lot sizes and frontages comparable to adjacent properties. Every detail since the beginning of the project, from lot line delineation & driveway location to environmental impact adheres to the common principle of low-impact and high yield neighborhood benefit. This consistency ensures that the new development will blend seamlessly into the community. Once the variance has been sufficiently granted, adequate buffers and setbacks for septic, well, and building location will be maintained, preserving the privacy and enjoyment of abutting properties. The introduction of a new, well-designed residence is likely to enhance the overall appeal of the area, potentially increasing property values. There is no evidence to suggest that the variance would interfere with the use or enjoyment of surrounding properties..”
5. *Denial of the variance would result in unnecessary hardship because:* “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 The general purpose of the 200-foot frontage requirement is to ensure adequate access, spacing between properties, and maintenance of neighborhood character. In this case, the property's slight deficiency in frontage does not impede access or alter the neighborhood's character, as evidenced by the similar frontages of abutting properties. Strict application of the frontage requirement in this instance does not serve its intended purpose and imposes an unnecessary limitation on the property's use. ii. The proposed use is reasonable. The proposed subdivision results in lot sizes of 5 acres and 1 acre, both of which are suitable for residential use and exceed the minimum lot size requirements. The slight shortfall in frontage is consistent with neighboring properties, making the proposed use reasonable, prudent, and appropriate for the area.

The property's unique condition—a slight deficiency in road frontage compared to the 200-foot requirement—distinguishes it from other properties. Strict conformance with the ordinance would prevent the reasonable subdivision of the land, limiting its use and potential. Therefore, granting the variance is necessary to enable a reasonable and prudent use of the property that is in line with the neighborhood's established development pattern and the goals and objectives sought by the general consensus of the public in order to mitigate the lack of housing in the State of New Hampshire.

The Property is Functionally Unusable for a Reasonable Subdivision Without the Variance ●
The intent of zoning regulations is to allow for reasonable and productive land use while maintaining orderly development. ● Without the variance, the property owner is effectively

prevented from subdividing and selling the 1-acre parcel, despite having more than sufficient acreage to do so. • The property is currently overly restricted compared to its neighbors, who have been able to develop similarly sized lots despite not meeting the exact 200-foot frontage requirement. Counterargument to potential opposition: The slight deficiency in frontage does not alter the neighborhood character or obstruct any zoning objective. Denying this variance places an unfair burden on the property owner by arbitrarily restricting development opportunities.

• The property's road frontage is just shy of the 200-foot requirement, making it a minor technical issue rather than a substantive zoning violation. • The owner did not create this limitation—the land was originally subdivided or shaped in such a way that achieving full compliance is not feasible without an extreme and unreasonable burden. • Unlike voluntary hardships (e.g., buying an undersized lot and then requesting a variance), this hardship is inherent to the land itself and is not the result of the owner's choices or actions.

Counterargument to potential opposition: Since zoning variances exist specifically to address hardships arising from unique land conditions, it would be inappropriate to deny relief in a situation where the hardship is imposed by historical property configurations rather than by the owner's decisions.

The Denial Would Result in an Economic Hardship Without Any Public Benefit • The inability to subdivide and sell the 1-acre parcel significantly reduces the economic utility of the land, limiting its value and usability. • The city gains nothing by enforcing a rigid, numerical requirement in this case—no public safety, environmental, or aesthetic benefit results from denying the variance. • The property owner suffers an unnecessary financial loss due to an arbitrary technicality, while granting the variance would allow for a reasonable use that aligns with the neighborhood. Counterargument to potential opposition: Zoning laws should balance public interest with individual property rights. If the general public gains no discernible benefit from strict enforcement of the ordinance in this case, then the property owner should not be forced to endure financial hardship.

The Proposed Subdivision Aligns with Precedent in the Neighborhood • Five other properties in the immediate area are also non-conforming with regard to frontage, proving that the 200-foot requirement is not a rigid or consistently applied standard. • Denying this variance would create an unfair and unequal standard, where some properties are allowed to remain non-conforming while a new subdivision is arbitrarily denied. • If the city has allowed similar properties to exist without issue, there is no legitimate basis to deny the variance in this case. Counterargument to potential opposition: If the city denies the variance despite allowing similar lot configurations nearby, it risks appearing inconsistent or arbitrary, which could lead to potential legal challenges based on unequal treatment.

The Denial Would Be Contrary to the City's Interest in Promoting Reasonable Growth • Concord, like much of New Hampshire, faces a need for additional housing and responsible land development. • Allowing this subdivision would create another residential parcel in an area already designated for housing, contributing to local economic growth and tax revenue. • The city's zoning ordinance was never meant to artificially suppress development but rather to guide it in a manner that preserves community character—this subdivision does exactly that. Counterargument to potential opposition: Strict adherence to zoning ordinances should not come at the expense of smart, responsible growth. Granting this variance promotes the city's long-term interest by allowing an otherwise permissible use of land.

6. Strict Compliance Would Require Unnecessary and Costly Alternatives • The only theoretical way to comply strictly with the 200-foot frontage rule would be for the owner to somehow acquire additional frontage from an abutter, which is unlikely and financially impractical. • Another alternative

would be to keep the 6-acre parcel whole, preventing an efficient and beneficial land use that the city has no legitimate reason to block. • Requiring extreme measures to comply with an arbitrary frontage rule is unreasonable when a simple variance resolves the issue without causing harm. Counterargument to potential opposition: The property owner should not be forced to seek impractical solutions to meet a frontage requirement that, in this case, serves no practical zoning purpose.

In conclusion, the requested variance meets all the necessary criteria: it aligns with the public interest, observes the spirit of the ordinance, ensures substantial justice, does not diminish surrounding property values, and addresses an unnecessary hardship due to the property's unique conditions. Granting this variance will allow for a development that is harmonious with the existing neighborhood and beneficial to the community.”

- 4.3 Northpoint Engineering, LLC, on behalf of Alec and Rachel Woods, requests approval for a variance from Section 28-4-1(d)(3) *Side Yard*/Section 28-4-1(h) *Table of Dimensional Regulations*, to permit a 2.5-foot side yard setback where 10 feet is the minimum requirement, at Tax Map Lot 6531Z 60, addressed as 64 Beacon St, in the Neighborhood Residential (RN) District. Not a development of regional impact. (ZBA 0257-2025)

Acting Chair Wallner read agenda items 4.3 and 4.4 into the record at the same time to be discussed as one.

Acting Chair Wallner asked for Alternate Member Perkins to sit in on this case.

Kevin Leonard (119 Storrs St, Ste 201, Concord) Rachel Woods (64 Beacon St, Concord) and Jeff Leonard (807 Pembroke St, Pembroke) are present to represent this application. Mr. Leonard stated they are located in the RN District. Mr. Leonard stated their lot is 3,048 square feet, or .07 acres, and is well undersized from the required lot size as are most of the lots in the area. They are on a corner. There are existing violations based on setbacks. Mr. Leonard stated there is a property diagonal to them that appears to have had a garage that was added. There is a short driveway with two parking spaces. They did have the property surveyed. The existing deck is 6.6 feet to the property line and 10 feet is the required setback. Mr. Leonard stated 80 feet is the frontage and they have 67.8 of frontage. Mr. Leonard stated everything is tight. Mr. Leonard stated the deck comes out the door. They are trying to maintain the two parking spaces that exist on Charles and have a one-car garage over the footprint of the existing deck. That does require a further encroachment on the side setback. It is 3 ½ feet to the building and 2 ½ feet to the roof line. They are hoping for relief on the side setback and the lot coverage.

Mr. Leonard read out loud the variance criteria submitted with the application. Mr. Leonard showed pictures of the property. Mr. Leonard stated they had a conversation with neighbors and no one objected to the proposed plan.

Acting Chair Wallner asked if there are similar houses that have a one-car garage.

Mr. Leonard stated yes, on Beacon St there are three houses in a row.

Member Winters asked if parking is tight in this neighborhood.

Mr. Wood stated yes, if there is an event at White Park.

Acting Chair Wallner asked if there is any member of the audience that would like to speak in favor of or opposition to this application, and asked staff for comment. Ms. Skinner had no comments. Acting Chair Wallner closed the public hearing and looked for discussion from the Board.

Member Winters stated it is a reasonable use. Member Winters noted having a one-car garage in this neighborhood is a reasonable use of the property, and it gets an extra car off the street. Member Winters stated they are doing this minimal change to the density, and it does not change the character of the neighborhood.

Member Monahan stated it will create a lot more density on the lot and thinks they would have had to get approval for the deck.

Member Spector-Morgan is a yes. A garage is a reasonable use. It is increasing the lot coverage by a relatively minimal amount. It is bringing it a little closer to the property line only by four feet. It is a small lot in a densely-packed neighborhood. It will not change the character of the neighborhood. It will not impact surrounding property values. There is no gain to the public in denying it. Member Spector-Morgan stated it is all summed up in the applicant's paragraph about deviation of surrounding property values.

Alternate Member Perkins does not see a concern, especially since it is occupying the space the deck was occupying.

Member Spector-Morgan made a motion to **grant the variance from Section 28-4-1(d)(3) Side Yard Setbacks/Section 28-4-1(h) Table of Dimensional Regulations**, to allow for a 2.5-foot side yard setback at 64 Beacon St where 10 feet is required, 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. Alternate Member Perkins seconded. The motion passed unanimously with 5 in favor (Monahan, Perkins, Spector-Morgan, Wallner, and Winters) to 0 opposed.

Findings of Fact:

1. *The variance will not be contrary to the public interest.* "Granting of the variances will allow for the construction of the proposed garage which will create one additional off-street parking space on the subject parcel – this is not contrary to the public interest but rather in support of the public interest. There is no reason to believe that the minor encroachment into the side yard setback would have any impact on the public at large. And, the minor increase in lot coverage, of approximately 24-sf will have no material impact whatsoever on the public."
2. *The spirit of the ordinance is observed by granting the variance.* "Granting the variances would not alter the essential character of the neighbor by allowing a one-car garage to be constructed on the subject parcel. It would promote additional off-street parking which is directly within the spirit of the Ordinance."
3. *Substantial justice will be done by granting the variance.* "Granting the variances would allow the applicant to proceed with the construction of the garage which is a very appropriate and reasonable use of the land."
4. *The values of surrounding properties will not be diminished.* "The majority of the houses in the subject neighborhood, including the subject house, were constructed over 100 years ago before the dimensional standards of the current zoning ordinance were in effect. As a result, the majority of the existing lots in the neighborhood are substandard in terms of lot size, lot frontage, lot coverage and yard areas. It is a very dense neighborhood that does not at all fit within the current dimensional standard requirements of the zoning ordinance. In looking at just the subject lot and its four abutting parcels, the average lot size is approximately 3,500-sf, whereas the minimum lot size requirement in the RN district is 10,000-sf. None of these

surrounding lots are in compliance with any of the noted dimensional requirements. The requested variances involve slight increases to existing non-conformities which will have not material impact on the surrounding properties, given the existing nature of the neighborhood.”

5. *Denial of the variance would result in unnecessary hardship because:* “The subject parcel is an existing, non-conforming lot and is substandard with respect to minimum lot area, minimum lot frontage, minimum front yard, minimum side yard and maximum lot coverage. At only 3,048-sf in total lot size, it is the smallest lot in a very dense neighborhood of undersized lots. In addition, it is a corner lot which further restricts its usable yard area. For these reasons, it does stand out as unique in comparison to other properties in the area. The dimensional standards imposed by the current Ordinance on such a substandard lot that has existed for over a century creates an unnecessary hardship on the lot. The minimum required side yard setback and the maximum allowable lot coverage of the current RN district are intended to be applied to lots that have a minimum area of 10,000-sf. The subject parcel has only 30% of that minimum lot area, making it impractical and unfair to apply those same dimensional standards to it. It is clear that there is no fair and substantial relationship between the intended purpose of the Ordinance and the specific application on the subject property in this instance, especially considering that the property has existed in harmony with surrounding properties for such a long period of time and that the proposed addition of a one-car garage is more than reasonable.”

- 4.4 Northpoint Engineering, LLC, on behalf of Alec and Rachel Woods, requests approval for a variance from Section 28-4-1(e) *Maximum Lot Coverage*/Section 28-4-1(h) *Table of Dimensional Regulations*, to permit 63.4% of maximum lot coverage where 50% is the maximum allowed, at Tax Map Lot 6531Z 60, addressed as 64 Beacon St, in the Neighborhood Residential (RN) District. Not a development of regional impact. (ZBA 0258-2025)

Acting Chair Wallner read this agenda item in with agenda item 4.3. See above for the conversation on this application.

Member Spector-Morgan made a motion to **grant the variance from Section 28-4-1(e)Maximum Lot Coverage/Section 28-4-1(h) Table of Dimensional Regulations**, to allow for 63.4% of maximum lot coverage at 64 Beacon St where 50% the maximum allowed, 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. Alternate Member Perkins seconded. The motion passed with 5 in favor (Monahan, Perkins, Spector-Morgan, Wallner, and Winters) to 0 opposed.

Findings of Fact:

1. *The variance will not be contrary to the public interest.* “Granting of the variances will allow for the construction of the proposed garage which will create one additional off-street parking space on the subject parcel – this is not contrary to the public interest but rather in support of the public interest. There is no reason to believe that the minor encroachment into the side yard setback would have any impact on the public at large. And, the minor increase in lot coverage, of approximately 24-sf will have no material impact whatsoever on the public.”
2. *The spirit of the ordinance is observed by granting the variance.* “Granting the variances would not alter the essential character of the neighbor by allowing a one-car garage to be constructed on the subject parcel. It would promote additional off-street parking which is directly within the spirit of the Ordinance.”

3. *Substantial justice will be done by granting the variance.* “Granting the variances would allow the applicant to proceed with the construction of the garage which is a very appropriate and reasonable use of the land.”
4. *The values of surrounding properties will not be diminished.* “The majority of the houses in the subject neighborhood, including the subject house, were constructed over 100 years ago before the dimensional standards of the current zoning ordinance were in effect. As a result, the majority of the existing lots in the neighborhood are substandard in terms of lot size, lot frontage, lot coverage and yard areas. It is a very dense neighborhood that does not at all fit within the current dimensional standard requirements of the zoning ordinance. In looking at just the subject lot and its four abutting parcels, the average lot size is approximately 3,500-sf, whereas the minimum lot size requirement in the RN district is 10,000-sf. None of these surrounding lots are in compliance with any of the noted dimensional requirements. The requested variances involve slight increases to existing non-conformities which will have not material impact on the surrounding properties, given the existing nature of the neighborhood.”
5. *Denial of the variance would result in unnecessary hardship because:* “The subject parcel is an existing, non-conforming lot and is substandard with respect to minimum lot area, minimum lot frontage, minimum front yard, minimum side yard and maximum lot coverage. At only 3,048-sf in total lot size, it is the smallest lot in a very dense neighborhood of undersized lots. In addition, it is a corner lot which further restricts its usable yard area. For these reasons, it does stand out as unique in comparison to other properties in the area. The dimensional standards imposed by the current Ordinance on such a substandard lot that has existed for over a century creates an unnecessary hardship on the lot. The minimum required side yard setback and the maximum allowable lot coverage of the current RN district are intended to be applied to lots that have a minimum area of 10,000-sf. The subject parcel has only 30% of that minimum lot area, making it impractical and unfair to apply those same dimensional standards to it. It is clear that there is no fair and substantial relationship between the intended purpose of the Ordinance and the specific application on the subject property in this instance, especially considering that the property has existed in harmony with surrounding properties for such a long period of time and that the proposed addition of a one-car garage is more than reasonable.”

- 4.5 Hinckley, Allen and Snyder, LLP, on behalf of Kasada, LLC, requests approval for a variance from Section 28-6-9(b)(1) *Permitted Building Signs*, to permit four wall signs where three wall signs are the maximum allowed, at Tax Map Lot 611Z 38/2, addressed as 287 Loudon Rd, in the Gateway Performance (GWP) District. Not a development of regional impact. (ZBA 0259-2025)

Acting Chair Wallner read agenda items 4.5 and 4.6 into the record at the same time to be discussed as one.

Acting Chair Wallner asked Alternate Member Mark Davie to sit in on this case.

Christine Dieter (650 Elm St, Manchester), Michelle Robinson (650 Elm St, Manchester), and Jennifer Squires (650 Elm St, Manchester) are present to represent this application. Ms. Dieter stated this is a project they have seen before. Ms. Dieter stated they were here last year seeking a parking variance, which was granted. They have gone to Planning Board for site plan approval. They are here tonight seeking two variances with respect to signage. One is to have four wall signs, where only three are permitted. The second is to have 123 square feet of signage, which is more than the maximum allowed.

Ms. Robinson stated they provided renderings of the building that will be developed. The signs they are here for tonight are the oval signs that say Raising Cane's.

Member Monahan asked if this is a free-standing building that is not yet constructed.

Ms. Dieter stated correct.

Ms. Robinson stated they are just wrapping up the permitting process. Ms. Robinson provided an overall plan of the building so they can see the relationship primarily to Loudon Rd. The patio is 120 feet off the road. They are set back and the building is small. Ms. Robinson noted she provided some views from google maps showing the approach. The third image that is taken from inside the current parking lot. They are set back off the road. The grassy knoll is where the building will be located. There is a view from Old Loudon Rd. The second to last page is the elevations. They are here tonight for four signs – one on each elevation. Ms. Robinson stated the four signs are important to them. It is consistent with their brand. They are new to the market and would like to have a full complement of signage. The one on the right is the entry. The one on the back is visible from Old Loudon Rd. The one on the left is by the drive-thru to help orient people as they are coming from Loudon Rd. When you leave Raising Caines you go to the left or the right. They feel it is important to help orient people to the building.

Ms. Dieter read out loud the five variance criteria that were submitted with the application.

Ms. Robinson noted for reference the Aldi sign is 76 square feet. There are two of those on their entrance. That is 152 square feet. Ms. Robinson does not feel they are contrary to the intent and spirit of the ordinance.

Member Winters wanted to know how many signs Aldi has.

Ms. Robinson stated two.

Acting Chair Wallner asked for the combined square footage.

Ms. Robinson stated 152.

Member Spector-Morgan asked if they have one on the back of the building and if the signs are lit.

Ms. Robinson answered yes.

Member Spector-Morgan asked if all four signs are proposed to be illuminated.

Ms. Robinson stated yes.

Member Winters asked if this signage is separate from the directory sign.

Ms. Dieter confirmed that to be the case.

Member Winters asked if the number of signs is based on the total lot or each condo land unit.

Member Spector-Morgan stated it is based on each individual building.

Member Winters asked if they have their own requirement that only applies to their building.

Ms. Dieter stated that is right.

Ms. Skinner stated freestanding signs are different.

Member Winters asked if they are not asking for freestanding signs.

Ms. Dieter answered that is correct.

Ms. Robinson stated it is existing today and they will submit a permit to add a Raising Cane's.

Acting Chair Wallner asked if they are working on one frontage or two.

Member Spector-Morgan stated it is based on the building.

Ms. Skinner stated the building only has frontage on one street.

Member Monahan noted they have made some accommodation for buildings that have an entrance on the front and the back.

Alternate Member Perkins stated this does not have a back entrance.

Member Winters noted it has road visibility.

Member Spector-Morgan asked if there is an approved residential development in the area.

Ms. Skinner stated there is something that was approved at 33 Old Loudon Rd and has not been constructed.

Member Monahan stated he is struggling to get to yes on four signs, noting that he does not feel signage on the Old Loudon Rd side is appropriate because there is no entrance there and it could be confusing. He further noted it is not necessary for public safety or providing information on access. It is not in keeping with the neighborhood, and he does not think any of the other buildings on Loudon Rd have signage on the full building.

Ms. Robinson stated down from them is a strip center with a T-Mobile and Vision Works. Ms. Robinson noted they both have signs on the front and Loudon Rd.

Member Monahan asked if they have signs that face Old Loudon Rd.

Ms. Robinson answer yes.

Member Spector-Morgan stated it looks like they do but she thinks that is for deliveries.

Ms. Skinner stated the number of signs is not based on the amount of frontage. Each building is allowed a maximum of three building signs. They are requesting a variance for the fourth sign.

Ms. Robinson stated if you are on Old Loudon Rd you will be able to see the building to orient yourself to get off of Old Loudon Rd to get to Loudon Rd.

Member Spector-Morgan noted if you are driving on Loudon Rd either way you will see the sign, and stated she is with Member Monahan on not getting to a yes on the back sign.

Ms. Robinson asked if having that sign be not lit would help.

Member Spector-Morgan stated that would be better.

Alternate Member Perkins noted the other strip mall signs mentioned only have a front and back. This one you will be able to see it from the sides.

Member Spector-Morgan does not have an issue with the square footage variance.

Ms. Skinner mentioned that the project approved for 33 Old Loudon Rd is for elderly housing.

Member Spector-Morgan asked if it will be directly behind the Raising Cain's.

Ms. Skinner stated it will be directly behind it.

Acting Chair Wallner asked if there is any member of the audience that would like to speak in favor of or opposed to this application, and with no member of the audience wishing to speak on this application asked staff for comment. Ms. Skinner had no comments. Acting Chair Wallner closed the public hearing and looked for discussion from the Board.

Acting Chair Wallner asked to take each variance separately. Acting Chair Wallner asked to start with the variance to allow four signs first.

Member Spector-Morgan made a motion to **deny the variance request from Section 28-6-9(b)(1) Permitted Building Signs**, because evidence was not provided showing that all the criteria under RSA 674:33 have been met. Specifically, the following criteria are not met for the following reasons: The fourth sign would alter the character of the neighborhood. While there are a couple signs on the back of the larger plaza with T-Mobile and Vision Works, the other stores in that plaza do not appear to have rear signs and they are not lit. Aldi does not have a rear sign. There is no entrance to this property from Old Loudon Rd. A sign on that side is neither necessary nor would it be appropriate. It might be distracting and confusing for drivers. Plus given that it abuts a residential neighborhood and there are additional residences going in it would be distracting. It is not consistent with the neighborhood. They have three signs and they can choose where to put them. It will not diminish surrounding property values. There is a gain to the general public by denying the fourth sign and keeping it consistent with the neighborhood off Old Loudon Rd as residential and not commercial. There is not a hardship. It is a freestanding building that can have three signs. They will be able to see the building signage from either direction. Member Monahan seconded.

Discussion

Member Winters noted they can put signs on the Old Loudon Rd side. In the narrative they expressed a desire to have a sign on each wall.

The motion passed 5 in favor (Davie, Monahan, Spector-Morgan, Wallner, and Winters) to 0 opposed.

- 4.6 Hinckley, Allen and Snyder, LLP, on behalf of Kasada, LLC, requests approval for a variance from Section 28-6-9(b)(1)(a) *an area equal to one square foot per linear foot of building frontage*, to permit 123 feet of signage where 58.5 feet is the maximum allowed, at Tax Map 611Z 38/2, addressed as 287 Loudon Rd, in the Gateway Performance (GWP) District. Not a development of regional impact. (ZBA 0261-2025)

Acting Chair Wallner read agenda items 4.5 and 4.6 into the record at the same time to be discussed as one.

Acting Chair Wallner asked Alternate Member Mark Davie to sit in on this case.

Member Spector-Morgan asked for the square footage for each sign.

Ms. Robinson stated 30.75.

Member Winters stated they asked for 123 and they are allowed 50.5.

Alternate Member Perkins noted for the three signs it would be 92.25 where only 58.5 feet is allowed and if it has to be a straight denial or approval.

Ms. Skinner stated they can approve with conditions.

Alternate Member Perkins noted Aldi has two signs totaling 150 square feet.

Member Winters stated he would be inclined to approve it.

Acting Chair Wallner noted the Board never gave the applicant a chance to rebut.

Ms. Dieter noted if they look at the logo shape, it is oval and the Aldi sign is a square. Ms. Dieter stated the calculations for most of the signs are based on a square. Ms. Dieter noted the sign area of the oval is 24.14.

Member Spector-Morgan asked if the Board was to give them 123 square feet for three signs if that would work for them.

Ms. Dieter answered yes.

Member Winters made a motion to **grant the variance from Section 28-6-9(b)(1)(a) an area equal to one square foot per linear foot of building frontage**, to allow for 123 feet of signage at 287 Loudon Rd where 58.5 feet is the maximum allowed, because all of the criteria under RSA 674:33 have been met based on the record before us, and I move to adopt the applicant's proposed findings as the Board's findings of fact. Member Monahan seconded.

Discussion

Member Monahan noted this is a shared curb cut for this property, and it adds to driver safety to find the way around.

The motion passed with 5 in favor (Davie, Monahan, Spector-Morgan, Wallner, and Winters) to 0 opposed.

Findings of Fact:

1. *The variance will not be contrary to the public interest.* "A variance is contrary to the public interest if "it unduly and in a marked degree conflicts with an ordinance such that it violates the ordinance's basic zoning objectives." Farrar v. City of Keene, 158 N.H. 684, 691 (2009) (internal quotations omitted). In determining whether a variance would violate basic zoning objectives, the Board should examine whether the variance would alter the essential character of the locality, or whether the granting of the variance would threaten public health, safety or welfare. *Id.* The variance requested here will not alter the essential character of the locality. The proposed use is consistent with and in harmony with the neighborhood. The surrounding area is commercial and contains several restaurants of a similar nature and character to Raising Cane's Chicken Fingers. Many of the surrounding restaurants, when viewed from Loudon Road, would

have signage indistinguishable in size and number to what the Applicant has proposed. The variance is consistent with the purpose of the GWP District to provide for well-designed, largescale commercial development, including restaurants. Nor will the variance threaten the public health, safety, or welfare. Outside of the variances requested, the proposed signage complies with all requirements of the Concord Zoning Ordinance, including illumination and flashing requirements which, if not complied with, could pose a threat to public health, safety, and welfare. The proposed wall signage will not impact the health, safety, or welfare of the public.”

2. *The spirit of the ordinance is observed by granting the variance.* “Our Supreme Court has determined that the requirement that a variance not be contrary to the public interest “is co-extensive and related to the requirement that a variance be consistent with the spirit of the ordinance.” *Chester Rod & Gun Club v. Town of Chester*, 152 N.H. 577, 580 (2005). “The public interest is protected by standards which prohibit the granting of a variance inconsistent with the purpose and intent of the ordinance, which require that variances be consistent with the spirit of the ordinance, or which permit only variances that are in the public interest.” *Id.* As such, this criterion overlaps with the public interest requirement. The Gateway Performance District is established “to provide for well designed, large scale commercial development along arterial streets at entrances to the City.” See Zoning Ordinance § 28-2-2(b)(11). The district is intended to be “predominantly commercial” and include “both individual and mixed use developments of retail, restaurant, service and office uses.” *Id.* This proposed development fits squarely within the purpose of the GWP District, and the variance will help further and preserve the spirit of the ordinance.”
3. *Substantial justice will be done by granting the variance.* “Substantial justice is done where granting a variance will not cause harm to the general public that outweighs the benefit to the applicant. See *Malachy Glen Associates v. Town of Chichester*, 155 N.H. 102, 109 (2007). That is clearly the case here. Granting this variance will cause no harm to the general public. Instead, doing so will facilitate bringing a highly desirable and popular restaurant to Concord’s downtown. Likewise, the benefit of the variance to the Applicant is substantial because it will allow a successful business operator to expand into southern New Hampshire, generate new business activity, and better align with the Applicant’s specific business model.”
4. *The values of surrounding properties will not be diminished.* “Granting the variance will not diminish surrounding property values. The proposed use of the Property is expressly allowed at this location and is surrounded by other commercial uses. The development will draw new commercial traffic to the area, which likely will support other businesses as well and positively affect surrounding property values. Increasing the total sign area will have no off-site impacts and will not diminish the value of surrounding properties.”
5. *Denial of the variance would result in unnecessary hardship because:* “The Property is unique in several respects. First, the Property consists of three land condominiums, which must share the access points to Loudon Road. Because the access points are at the far ends of the Property, interior traffic must be able to flow the entire length of the Property, increasing the need for more and larger signage at the interior of the site. The southern entrance to the Property is at a signalized intersection on Loudon Road which uniquely provides access to both the Property and to the adjacent shopping center at 273 Loudon Road. Therefore, the access to the Property is configured in such a way that potential customers will view the building from all four sides with frequency – three sides from Loudon Road, and one side from the actual access road onto the Property. Additionally, the irregular shape of the lot creates numerous setback requirements that further limit the areas where signage could be displayed and the distance from the street to the building, requiring larger signs for visibility to passing traffic. These physical challenges on the Property

make it uniquely adversely affected by the signage requirements of the Concord Zoning Ordinance. The general public purpose of the signage requirements is to maintain and enhance the appearance and aesthetic environment of the City, particularly along the highway corridors leading into the City. In this case, the Applicant's extensive experience indicates that the proposed signage will have no impact on the aesthetic environment of the City. With respect to the total sign area, these signs are of a similar size and shape as other signs in the surrounding area and do not have any negative impact on the appearance and aesthetic of the surrounding environment. There is no substantial relationship between the general public purposes of the ordinance provision noted above and the specific application of those provisions to the Property. The proposed project is consistent with those purposes and objectives. A proposed project "is presumed to be reasonable if it is a permitted use under the Town's applicable zoning ordinance." Malachy, 155 N.H. at 107. Wall signage such as the signage proposed by the Applicant is allowed in the GWP district, and the signs are not abnormally large or bright compared to signage for other businesses in the surrounding area. For reasons explained above, the proposed use is not only reasonable; it is both appropriate and desirable for this location. It is consistent with the goals and objectives of the GWP District and will contribute to the development of the Property in a manner both functional and attractive.

- 4.7 Kevin Cheney, on behalf Parish Hill Properties, LLC, requests approval for a variance from Section 28-4-1(d)(3) *Side Yard*/Section 28-4-1(h) *Table of Dimensional Regulations*, to permit a 30-foot side yard on both sides where 40 feet is the minimum requirement, at Tax Map 52Z 16, addressed as 83 W Parrish Rd, in the Open Space Residential (RO) District. (ZBA 0260-2025)

Acting Chair Wallner asked for Alternate Member Perkins to sit in on this case.

Kevin Cheney (83 West Parish Rd, Concord) stated he is the builder for this house and is seeking a variance for the side setbacks. Mr. Cheney stated the front section of the property is wet. Mr. Cheney stated the incline happens when right off the road. Mr. Cheney stated the property will be hard to build and almost offered a front walkout house. It will be tall from the road, which is not like anything in the neighborhood. Mr. Cheney noted houses in the neighborhood are country-like houses. Mr. Cheney wants to build on the far back of the property where it is a little more level. This property narrows in at 300 feet and again at 110 feet. Mr. Cheney wants to have house on westerly side to be out of view of the neighbor.

Alternate Member Perkins asked if it will stick out behind the other two houses.

Mr. Cheney noted to stay within the neighborhood he is looking to do a farm country house. Mr. Cheney does not want to do a small box house. Mr. Cheney wants to keep with the neighborhood. Mr. Cheney pointed out to the Board where the house would fit without a variance.

Member Winters asked for Mr. Cheney to show where the house would fit without the variance.

Alternate Member Perkins noted the yellow is where it could go and the purple is where he wants to put the house.

Mr. Cheney stated he would like to keep it out of the view of all of the neighbors.

Member Winters noted where he is putting the house is at the narrowest portion of the lot.

Mr. Cheney stated that is where the best view is and the slope of the yard he does not want to have an eight-foot fill if he moved the house. Mr. Cheney noted he is trying to keep everything natural. He pointed out on the property where there are stone walls.

Alternate Member Perkins asked about the size of the lot.

Mr. Cheney stated five acres.

Member Monahan asked about the front of the property being wet and why not put the house there.

Mr. Cheney stated it is not wet. However, all of the drainage from the neighbors' yards come to one section.

Member Winters asked if Mr. Cheney read the letter from the abutter.

Mr. Cheney said yes.

Member Winters asked if he had a response.

Mr. Cheney stated picture two has the property line and shows where he wants to put the house. Mr. Cheney stated from closest point to closest point is 160 feet. Mr. Cheney does not feel that is close at all in his opinion. Mr. Cheney noted it is 110 feet to the property line and then 50 or so to her front porch.

Member Winters asked if he complied with the setbacks would he be closer to the abutters.

Mr. Cheney noted this house is in keeping with the neighborhood and a farmhouse with the views and stone walls.

Member Winters asked for the direction of the beautiful view.

Mr. Cheney noted he did remove some trees for her on her property. Mr. Cheney stated in order to build the house he needs a variance.

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

Joseph Kennard (85 West Parish Rd, Concord) stated he is opposed to the 30-foot setback.

Acting Chair Wallner asked if there is anyone in the audience that would like to speak in opposition.

Kaylee Howard (81 West Parish Rd, Concord) stated she submitted a letter. Ms. Howard passed pictures to the Board. Ms. Howard stated she just purchased her property last month. Ms. Howard stated she knew Kevin before this. Ms. Howard noted the proposed location of the house is well over the setback. Ms. Howard noted the further to the right that he builds especially close to her property will block the view. Ms. Howard stated if you put a hand in front of your face you cannot see around it. If it is further away at a lower elevation there is less of a change of it obstructing. Additionally, she became concerned when he cleared the side yard. If you look to the right of the cabin, you can see the property line angles. Ms. Howard stated where he is proposing to put the house it is now their backyard. Ms. Howard noted it would be right next to her house. Ms. Howard stated Mr. Cheney removed trees for her property. Ms. Howard noted on the 2014 boundary line plan submitted with the materials for the application.

Alternate Member Perkins asked if about a specific building being on her property

Ms. Howard stated that is a neighbor.

Alternate Member Perkins asked if that is on the other side.

Ms. Howard answered yes, they applied for a variance to build that structure. Ms. Howard noted the more the house is set back, it does protrude outward. Ms. Howard pointed out the direction of the view. Ms. Howard does not want their backyard to be in her front yard. Ms. Howard does not feel he can meet the hardship requirement because he has a buildable area. Ms. Howard noted it is a little damp but it is not wetlands. Ms. Howard stated the third picture was taken from where Mr. Cheney's preferred location is. The second picture she walked up 35 feet and it does not change the view. Ms. Howard noted the house will still have a beautiful view. Ms. Howard noted this is her private residence and Mr. Cheney is building for resale.

Alternate Member Perkins asked if the property is sloping.

Ms. Howard stated it slopes a little bit but it is not significant.

Member Monahan asked to go back to the view conversation.

Ms. Howard stated the best view from this angle is off of the porch.

Acting Chair Wallner stated where he is proposing to place the house, he does not think that will block the view of the whole structure. Acting Chair Wallner noted Mr. Cheney would be blocking the view to the left of these properties.

Ms. Howard stated from her house the view over to the left.

Acting Chair Wallner asked where house is on the map.

Ms. Howard stated Kearsarge is to the left. Ms. Howard noted she is not sure if Mr. Cheney met any of the requirements. Ms. Howard feels it would harm her property value. Ms. Howard does not think Mr. Cheney's rights outside of the permitted area outweigh her rights as an abutter with an existing home. Ms. Howard noted he has no hardship because he has a buildable area.

Acting Chair Wallner asked if there is any member of the audience that would like to speak in opposition to this, and with no member of the audience wishing to speak on this application asked staff for any comment. Ms. Skinner had no comments. Acting Chair Wallner asked Mr. Cheney back to discuss the application.

Mr. Cheney stated in one of the pictures you can see the proposed house number one. The view from the front of the house and she is back another 20 feet. Mr. Cheney does not think the height of the house will not affect the view. Mr. Cheney noted if he was to move the house down she will have the whole house blocking the view. Mr. Cheney does not want to move it down the hill to block the neighbors. Mr. Cheney is a contractor and knows the outcome of the job if he goes down the sloped front yard if he moves 60 feet down.

Member Winters asked where the alternative location is in case the variance is denied.

Mr. Cheney noted it will be close to a neighbor.

Alternate Member Perkins noted the closer to the road there might be more distance from her house to the proposed house. It looks like it will put more of the house in the way of the view to the left.

Mr. Cheney stated picture six is a view of the neighbor's house where the house would fit without a

variance.

Member Winters asked if the purple is what he is asking for now.

Mr. Cheney answered yes, between the two setbacks it is 54 feet.

Member Winters asked why the house cannot be turned.

Mr. Cheney stated it will not fit.

Member Winters suggested to rotate it 90 degrees.

Mr. Cheney stated it would lose the first-floor view.

Alternate Member Perkins noted it would hurt the value.

Member Winters asked if he would move it up as far as you can go to meet the setback. Mr. Winters noted it would be a less ideal setting and construction wise.

Mr. Cheney stated it is a 10-foot drop.

Member Winters asked from the papers it stated the main reason for the variance is the view.

Member Winters asked from the neighbors the way he is saying the setback is 40 feet and you are asking to be within 30 feet. Member Winters asked for an exact measurement from the drawing.

Mr. Cheney asked to pull up the septic plan. Mr. Cheney noted on the plan you can see the setbacks. Mr. Cheney noted the front corner is nine feet, and the back corner is 10 feet on the right side due to the angle.

Alternate Member Perkins asked if she is staring up the lot to the house the right side is 10 feet over the setback.

Mr. Cheney stated the left side is nine feet in the front and the back.

Acting Chair Wallner closed the public hearing and opened for discussion with the Board.

Member Winters stated the view by the applicant's admission is one of the main reasons he wants to put it there. Member Winters noted as the neighbor said it is not relevant to the setback request. It has to do with why it is a hardship to allow it. The setback requirements in general have to do with allowing space within the RO. Member Winters is not seeing this is a serious setback violation at the furthest point it is ten feet. Mr. Winters noted it is a minor infringement. Mr. Winters stated he did not feel there was a compelling case as to why he did not move the house.

Member Monahan stated it is tough to make a case for perspectives on views. Member Monahan noted he has to look at the facts and does not see a compelling reason why there is a hardship on the setback.

Alternate Member Perkins sees some of the hardship with 10-foot elevation is not huge and can see why he would not want to construct it in the elevation and in the front, it is wet. Alternate Member Perkins sympathizes with the neighbor because when she looks out her back door she is staring at her neighbor's house. Alternate Member Perkins noted if he moves it forward will be more in her view than he would be back there. Alternate Member Perkins noted the decks are 100 plus feet apart and feels the

view will be more constricted if he moves it forward. Alternate Member Perkins stated she is inclined to say yes to it but she is flexible. Alternate Member Perkins noted she is not sure how far the elevation hardship goes up the lot to require it to be this far back.

Member Spector-Morgan stated she does not care about the views as there is a perfectly good place to build the home. Member Spector-Morgan noted there is no hardship. Member Spector-Morgan stated she cannot vote for this variance.

Acting Chair Wallner stated he agrees with Alternate Member Perkins that the view would be further exacerbated if you put it where he can put it. Acting Chair Wallner also does not see a hardship.

Member Winters stated he kind of agrees with Alternate Member Perkins in the sense this may not comply with a hardship.

Member Perkins noted it is an awkward lot.

Member Spector-Morgan made a motion to **deny the variance request from Section 28-4-1(d)(3) Side Yard Setbacks/Section 28-4-1(h) Table of Dimensional Regulations**, as there is no hardship. There is a legal, reasonable, and adequate area that complies with setbacks. Therefore, there is no unnecessary hardship. Member Winters seconded. The motion passed with 5 in favor (Monahan, Perkins, Spector-Morgan, Wallner, and Winters) to 0 opposed.

- 4.8 Advantage Signs, on behalf of Roman Catholic Bishop of Manchester, requests approval for a variance from Section 28-6-9(b)(1)(a) and (b) *Permitted Building Signs*, to permit 60 square feet of signage where 38 square feet is the maximum allowed, at 67 S State St, in the Urban Transitional (UT) District. Not a development of regional impact. (ZBA 0262-2025)

Acting Chair Wallner asked Alternate Member Mark Davie to sit in on this case.

Jonathan Halle (142 West Parish Rd, Concord) is present to represent this application. Mr. Halle noted the lettering about the dedication will come off. It is just Christ the King Food Pantry Theresa A. Downing Memorial Building. The way this was measured and the way staff looked at it this is a piece of PVC trim mounted to the building with acrylic letters. If you take Christ the King Food Pantry eight inches plus four and the space between another four they are a little less than 20 square feet of sign where 36 is allowed. It is an issue of the PVC trim board in the back being considered the sign, which is over the thirty-six square feet.

Member Monahan asked where the public access will be located.

Mr. Halle said on State St.

Member Monahan asked if this is facing State St.

Mr. Halle said facing State St. Mr. Halle stated the welcome sign over the door to the right has a small porch that steps back about 20 feet. Mr. Halle stated there is another little sign in the back that says donations drop off. There is a raised porch for people to leave things out of the weather.

Member Monahan asked if that is in the back of the parking lot.

Mr. Halle answered yes.

Member Winters asked if this is the building they are constructing now.

Mr. Halle answered yes.

Alternate Member Perkins stated this received a large donation for the building.

Member Spector-Morgan asked if signage is determined by building, not lot.

Ms. Skinner stated they can have three signs per building, and the total square footage of the three signs is determined by the building's frontage.

Member Winters asked if you get a variance to build a building then they inherently put signage on it.

Member Spector-Morgan noted because it is a tiny building it gets a tiny amount of square footage for signage.

Ms. Skinner answered correct, because it does not have much building frontage.

Mr. Halle stated when the building was approved there was a lot consolidation of eight or nine lots that were consolidated into one lot.

Ms. Skinner stated it is irrelevant and immaterial because it is based on building frontage, not lot frontage. This building has a small amount of building frontage.

Acting Chair Wallner asked if there is any member of the audience that would like to speak in favor of or opposed to this application, and with no member of the audience wishing to speak on this application asked staff for any comment. Ms. Skinner had no comments. Acting Chair Wallner closed the public hearing and looked for discussion from the Board.

Member Winters stated he is good.

Alternate Member Perkins stated she is good.

Ms. Spector-Morgan made a motion to **grant the variance from Section 28-6-9(b)(1)(a) and (b) Permitted Building Signs**, to permit 60 square feet of signage where 38 square feet is the maximum allowed, at 67 S State St, because all of the criteria under RSA 674:33 have been met based on the record before us, because this variance will not be contrary to the public interest or spirit of the ordinance, because it will not alter the essential character of the neighborhood or be detrimental to the public safety, health or welfare, it will not diminish surrounding property values, there is no gain to the public in denying the variance, the hardship is the meager amount of signage that is permitted for this small building, and there is nothing superfluous about this signage. Member Monahan seconded and added to the finding of fact that it is a complex campus with multiple things associated with the parish and having proper signage will help the public access. The motion passed with 5 in favor (Davie, Monahan, Spector-Morgan, Wallner, and Winters) to 0 opposed.

5. Review and acceptance of Minutes from March 5, 2025

Member Winters moved, seconded by Alternate Member Perkins, to approve the meeting minutes from March 5, 2025, as written. The Board voted 6 in favor (Davie, Monahan, Perkins, Spector-Morgan, Wallner, and Winters) to 0 opposed. The motion passed unanimously.

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

7. Adjourn

On a motion made by Member Monahan, seconded by Member Spector-Morgan, the Board unanimously voted 6 in favor (Davie, Monahan, Perkins, Spector-Morgan, Wallner, and Winters) to 0 opposed to adjourn at 7:53 p.m.

Respectfully submitted,

Krista Tremblay

Krista Tremblay

Administrative Technician III

DRAFT

OWNER AUTHORIZATION FOR ENTITY

I, Kevin McCarthy, as the duly authorized
(print name)

Member/Manager of McCarthy Benevolent Trust
(member, manager, etc.) (name of entity)

by my signature below, hereby authorize Zachary J. Letourneau - Letourneau Land Management to
(name of applicant)

Submit Zoning Board of Adjustment/Planning Board/Planning Division applications and applicable materials for presentation to Concord Planning Division/Concord Zoning Board of Adjustment/Concord Planning Board for the proposed development at:

227 Garvins Falls RD Concord, NH 03301

(address of site)



(Signature)

February 24th 2025

(Date)



AnneMarie Skinner, AICP
City Planner

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

April 4, 2025

Zachary Letourneau
253 Page Rd
Dublin, NH 03444

RE: Notice of Decision – ZBA 0256-2025

Dear Mr. Letourneau:

At a meeting of the Concord Zoning Board of Adjustment, held on April 2, 2025, the Board voted on the following:

Zachary J. Letourneau, on behalf of McCarthy Family Trust of 2021, requests approval for a variance from Section 28-4-1(c) *Minimum Lot Frontage*/Section 28-4-1(h) *Table of Dimensional Regulations*, to permit 150 feet of lot frontage for a new lot where 200 feet is the minimum requirement, at Tax Map Lot 92Z 4, addressed as 227 Garvins Falls Rd, in the Medium Density Residential (RM) District and the Open Space Residential (RO) District. Not a development of regional impact. (ZBA 0256-2025)

With a vote of 5-0, the Board granted the variance from Section 28-4-1(c) *Minimum Lot Frontage*/Section 28-4-1(h) *Table of Dimensional Regulations*, to allow for frontage of 150 feet where 200 feet is required, at 227 Garvins 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 proposed 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 requested variance aligns with the public interest by maintaining the established character of the Garvins Falls Road neighborhood. The proposed subdivision reflects the existing pattern of development, where several abutting properties also have frontage slightly below the 200-foot requirement. This consistency ensures that the essential character of the locality remains unchanged. For further review & comprehension, the proposed lot would have approximately 150 ft of frontage based on surveyors estimates. There are 9 abutters, the avg frontage for all is: 162 feet. Of those same 9 abutters, 6 are non-conforming. House 228 has 120 ft House 225 has 180 ft House 222 has 75 ft House 220 has 75 ft House 218 has 100 ft House 241 has 146 ft House 219 has 320 ft House 233 has 301 ft House 241 has 146 ft The subdivision will not introduce additional traffic congestion or compromise traffic safety. The creation of a single additional lot for the purposes of constructing a single family dwelling is a minimal change that will not significantly impact the current traffic flow. Moreover, the proposed use is residential, which is harmonious with the existing uses in the area and does not pose any public safety concerns. Furthermore, the development of the new lot will contribute positively to the community by providing an additional housing opportunity, addressing the ongoing need for residential options within the city. This development utilizes the land efficiently without altering the neighborhood's character and disposition or overburdening public infrastructure."

2. *The spirit of the ordinance is observed by granting the variance.* “The spirit of the zoning ordinance is to ensure orderly development that preserves the character of neighborhoods, prevents overcrowding, and provides adequate space for residents. While the ordinance stipulates a 200-foot frontage requirement, the slight deficiency in frontage for the proposed subdivision does not undermine these objectives. The proposed lot sizes—5 acres and 1 acre—exceed the minimum lot size requirements, ensuring ample space for residential use and maintaining low-density development. The variance sought is minimal and consistent with the existing frontage of neighboring properties, thereby fitting within the essential character of the neighborhood. Granting this variance will not negatively impact abutters or the public. Instead, it will allow for a development that is in harmony with the surrounding properties, providing a public benefit by enhancing the neighborhood with an additional well-planned residence.”
3. *Substantial justice will be done by granting the variance.* “Granting the variance balances the property owner's reasonable use of their land with the public's interest in maintaining the neighborhood's character. The proposed subdivision is consistent with the area's current residential use, where similar lot frontages exist. The benefit to the property owner is significant, allowing for the productive use of their land through the creation of an additional lot. This benefit outweighs any negligible impact on the public, as the subdivision aligns with existing neighborhood patterns and does not introduce any adverse effects.”
4. *The values of surrounding properties will not be diminished.* “The proposed subdivision is designed to be in harmony with the existing neighborhood, featuring lot sizes and frontages comparable to adjacent properties. Every detail since the beginning of the project, from lot line delineation & driveway location to environmental impact adheres to the common principle of low-impact and high yield neighborhood benefit. This consistency ensures that the new development will blend seamlessly into the community. Once the variance has been sufficiently granted, adequate buffers and setbacks for septic, well, and building location will be maintained, preserving the privacy and enjoyment of abutting properties. The introduction of a new, well-designed residence is likely to enhance the overall appeal of the area, potentially increasing property values. There is no evidence to suggest that the variance would interfere with the use or enjoyment of surrounding properties..”
5. *Denial of the variance would result in unnecessary hardship because:* “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 The general purpose of the 200-foot frontage requirement is to ensure adequate access, spacing between properties, and maintenance of neighborhood character. In this case, the property's slight deficiency in frontage does not impede access or alter the neighborhood's character, as evidenced by the similar frontages of abutting properties. Strict application of the frontage requirement in this instance does not serve its intended purpose and imposes an unnecessary limitation on the property's use. ii. The proposed use is reasonable. The proposed subdivision results in lot sizes of 5 acres and 1 acre, both of which are suitable for residential use and exceed the minimum lot size requirements. The slight shortfall in frontage is consistent with neighboring properties, making the proposed use reasonable, prudent, and appropriate for the area.

The property's unique condition—a slight deficiency in road frontage compared to the 200-foot requirement—distinguishes it from other properties. Strict conformance with the ordinance would prevent the reasonable subdivision of the land, limiting its use and potential. Therefore, granting the variance is necessary to enable a reasonable and prudent use of the property that is in line with the neighborhood's established development pattern and the goals and objectives sought by the general consensus of the public in order to mitigate the lack of housing in the State of New Hampshire.

The Property is Functionally Unusable for a Reasonable Subdivision Without the Variance • The intent of zoning regulations is to allow for reasonable and productive land use while maintaining orderly development. • Without the variance, the property owner is effectively prevented from subdividing and selling the 1-acre parcel, despite having more than sufficient acreage to do so. • The property is currently overly restricted compared to its neighbors, who have been able to develop similarly sized lots despite not meeting the exact 200-foot frontage requirement. Counterargument to potential opposition: The slight deficiency in frontage does not alter the neighborhood character or obstruct any zoning objective. Denying this variance places an unfair burden on the property owner by arbitrarily restricting development opportunities.

● The property's road frontage is just shy of the 200-foot requirement, making it a minor technical issue rather than a substantive zoning violation. ● The owner did not create this limitation—the land was originally subdivided or shaped in such a way that achieving full compliance is not feasible without an extreme and unreasonable burden. ● Unlike voluntary hardships (e.g., buying an undersized lot and then requesting a variance), this hardship is inherent to the land itself and is not the result of the owner's choices or actions. Counterargument to potential opposition: Since zoning variances exist specifically to address hardships arising from unique land conditions, it would be inappropriate to deny relief in a situation where the hardship is imposed by historical property configurations rather than by the owner's decisions.

The Denial Would Result in an Economic Hardship Without Any Public Benefit ● The inability to subdivide and sell the 1-acre parcel significantly reduces the economic utility of the land, limiting its value and usability. ● The city gains nothing by enforcing a rigid, numerical requirement in this case—no public safety, environmental, or aesthetic benefit results from denying the variance. ● The property owner suffers an unnecessary financial loss due to an arbitrary technicality, while granting the variance would allow for a reasonable use that aligns with the neighborhood. Counterargument to potential opposition: Zoning laws should balance public interest with individual property rights. If the general public gains no discernible benefit from strict enforcement of the ordinance in this case, then the property owner should not be forced to endure financial hardship.

The Proposed Subdivision Aligns with Precedent in the Neighborhood ● Five other properties in the immediate area are also non-conforming with regard to frontage, proving that the 200-foot requirement is not a rigid or consistently applied standard. ● Denying this variance would create an unfair and unequal standard, where some properties are allowed to remain non-conforming while a new subdivision is arbitrarily denied. ● If the city has allowed similar properties to exist without issue, there is no legitimate basis to deny the variance in this case. Counterargument to potential opposition: If the city denies the variance despite allowing similar lot configurations nearby, it risks appearing inconsistent or arbitrary, which could lead to potential legal challenges based on unequal treatment

The Denial Would Be Contrary to the City's Interest in Promoting Reasonable Growth ● Concord, like much of New Hampshire, faces a need for additional housing and responsible land development. ● Allowing this subdivision would create another residential parcel in an area already designated for housing, contributing to local economic growth and tax revenue. ● The city's zoning ordinance was never meant to artificially suppress development but rather to guide it in a manner that preserves community character—this subdivision does exactly that. Counterargument to potential opposition: Strict adherence to zoning ordinances should not come at the expense of smart, responsible growth. Granting this variance promotes the city's long-term interest by allowing an otherwise permissible use of land. 6. Strict Compliance Would Require Unnecessary and Costly Alternatives ● The only theoretical way to comply strictly with the 200-foot frontage rule would be for the owner to somehow acquire additional frontage from an abutter, which is unlikely and financially impractical. ● Another alternative would be to keep the 6-acre parcel whole, preventing an efficient and beneficial land use that the city has no legitimate reason to block. ● Requiring extreme measures to comply with an arbitrary frontage rule is unreasonable when a simple variance resolves the issue without causing harm. Counterargument to potential opposition: The property owner should not be forced to seek impractical solutions to meet a frontage requirement that, in this case, serves no practical zoning purpose.

In conclusion, the requested variance meets all the necessary criteria: it aligns with the public interest, observes the spirit of the ordinance, ensures substantial justice, does not diminish surrounding property values, and addresses an unnecessary hardship due to the property's unique conditions. Granting this variance will allow for a development that is harmonious with the existing neighborhood and beneficial to the community.”

If there is a significant change at any time in the future, you are hereby advised to discuss any proposed changes with the City Planner. If the use or construction authorized by this approval has not commenced within the two-year anniversary date of the original decision (or by **April 2, 2027**), it shall be deemed to have expired and authorization shall be considered null and void as specified in Section 28-9-3(b)(5) of the Zoning Ordinance.

Granting of a variance does not authorize construction or use prior to the application for and approval of site plan review, architectural design review, and/or subdivision review, as applicable. Granting of a variance does not authorize construction or use prior to the application for and issuance of a building permit, if applicable.

Zoning Board of Adjustment

A handwritten signature in blue ink, appearing to read "AnneMarie Skinner", with a stylized, cursive script.

AnneMarie Skinner, City Planner

J.E. BELANGER LAND SURVEYING P.L.L.C.

61 Old Hopkinton Road
Dunbarton, New Hampshire 03046
Phone number (603) 774-3601
Email:jacques@belangersurvey.com

MAP 92/Z LOT 4 ABUTTERS LIST

Owners:

Map 92/Z Lot 4
McCarthy Family Trust of 2021
Kevin J. & Karen F. McCarthy, Trustees
227 Garvins Falls Road
Concord, NH 03301

Map 91/Z Lot 1

Eric A. & Vanessa R. Marsh
233 Garvins Falls Road
Concord, NH 03301

Abutters:

Map 91/Z Lot
Public Service Co. of NH
AKA Eversource Energy
PO Box 270
Hartford, CT. 06141

LAND SURVEYOR:

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61 Old Hopkinton Road
Dunbarton, NH 03046

SOILS SCIENTIST:

Josh Brien
177 King Street
Boscawen, NH 03303

Map 92/Z Lot 5
Robert P. Jr. & Suzanne L. Plante
228 Garvins Falls Road
Concord, NH 03301

Map 92/Z Lot 6
Ricky W. Campbell
224 Garvins Falls Road
Concord, NH 03301

Map 92/Z Lot 3
Richard Curtis and Cheryle Guerin
219 Garvin Falls Road
Concord, NH 03301

Map 634 Lot 2
Pembroke Golf, LLC
15 West Road
Canterbury, NH 03224