

CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820
Meeting Date: Thursday, June 19, 2025
Meeting Time: 7:00 pm

1. ATTENDANCE

Members Present: Chris Prior (Chair), Anthony Sillitta (Vice Chair), Rich Onufry, Nicholas Couturier, Jackson Brown, Hilary Hamer (Alternate)

Members Not Present:

Staff Present: Paul R. Crouser (Zoning Administrator)

Chair Prior called the meeting to order at 7PM.

2. APPROVAL OF MEETING MINUTES OF MAY 15, 2025

Motion: Couturier moved to approve the minutes of May 15, 2025 as submitted. Seconded by Brown. Vote: U/A

Chair Prior explained the hearing process.

Motion: Onufry moved to remove item A from the table. Sillitta seconded. Vote: U/A

3. HEARINGS

A. Rehearing of *ZONE-2024-0045 Applicant: Simon D. J. Macalister, 9 Maple Street, Tax Map 30, Lot 66, located in Urban Density Multi Residential District (RM-U), requests a Special Exception through Section 170-12, Conversion to, or creation of Dwelling, 3-4 Family criteria, to allow for the addition of three (3) new dwelling units to an existing single-family dwelling.

Chair Prior re-opened the public hearing, noted he has watched last month's meeting, there is a new plan in the packet for this item tonight and the packet was made publicly available.

Steve Haight, CivilWorks addressed the changes since the last meeting. They finalized the boundary existing conditions document and have submitted that which demonstrates the lot size meets the criteria. The rest of the criteria for special exception remains as presented last month. The applicant will be going to the Planning Board for the special exception, and they will review the project for site plan, landscape plan, parking, drainage etc. The special exception request tonight is for number of units.

The project is a multi-family and request for the associated density. The project meets the requirements of criteria for special exception. He addressed number of units, utilities, water and sewer, parking, landscape buffers. Criterion A and E do not apply due to HUD fair market rates.

Mr. Haight addressed questions from the board relating to criteria b: no backing out onto the street and confirming TRC will have say in its compliance.

The Chair reminded the public to address new information.

Public comment:



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820
Meeting Date:	Thursday, June 19, 2025
Meeting Time:	7:00 pm

Sam Hewitt, 5 Maple St. read his concerns about the proposed project into the record. He requested the board vote to deny the special exception based on multiple procedural and material defects. He handed out some documents he created by overlaying information over the site map. This appears to show an encroachment to his property. Additionally, he handed out papers with parking simulations.

Jonathan Payne, 2 Maple St. is in opposition to the project and highlighted some issues he has including the new survey not having explanations and unsatisfactory snow storage and parking access.

Ashley Ryall, 5 Maple St. states the project is not eligible for special exception. She is concerned about people having to drive over her land to access their parking and asks the board to perform their duties by promoting the health, safety and welfare of the community.

Shaun Page, 3 Maple St. talked about the character of the neighborhood. The proposed project does not fit with the old buildings on this portion of the street. He is not concerned about having multi-family units, it is the density proposed of 4 separate houses where one exists that is the concern.

Kyle Stanley, 4 Maple St. is opposed to the project due to the size of the structure on the lot, the parking and backing out to the road, and lack of street space for parking and driving especially in winter.

The Chair asked the applicant why the new survey was not overlayed onto the old survey.

Mr. Haight pointed out that the original survey was not a stamped survey plan. It didn't seem necessary to include that in this packet.

He explained the new plan shows the property line is adjusted from where it was on the previously submitted unstamped survey plan.

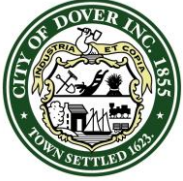
Board members reviewed the plans submitted to better understand the change.

Mr. Haight noted the TRC and Planning processes are still to come. This hearing is for the number of units. All of the abutters and board members have valid concerns, and if the project as proposed cannot meet the restrictions and requirements, adjustments will be made such as decreasing the size of the building.

The Chair cited the questions the board must answer as part of their findings of fact for special exception.

Sam Hewitt, 5 Maple St. stated the first survey was stamped and signed. He gave a copy to the board.

Planning Department input: Staff supports this Special Exception request with conditions. Per the applicant's narrative, the property owner is willing to restrict the three (3) newly generated units to the applicable HUD Fair Market Rental rates, eliminating the need to comply with criteria A and E, with the project meeting all other criteria as-presented.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: **Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820**
Meeting Date: **Thursday, June 19, 2025**
Meeting Time: **7:00 pm**

During the petition for rehearing and the public meeting that followed (in which this Board granted the rehearing) it was universally decided that the applicant/property owner in this project would be responsible for proving to the Technical Review Committee (“TRC”) that the project satisfied all applicable provisions within Site Review Regulations, Chapter 153, §§ 153- 14 and 153-17.

Regarding said compliance with the aforementioned sections of the Site Review Regulations, staff wishes to emphasize that this Board should not attempt to interpret and apply the applicable Site Review Regulations, as that responsibility lies solely with the TRC or Planning Board. The Board shall only consider project variables which do or do not satisfy the RM-U District’s Special Exception criteria specific to the creation or conversion of a 3-4 family dwelling.

Given the above, Staff recommends that the Board open the public hearing, accept testimony, and make findings on each of the Special Exception criteria. Based on the evidence presented, Staff recommends that this Board approve this Special Exception request, though Staff encourages it do so with the following conditions:

1. A Landscape Plan proving compliance with parking area screening requirements shall be submitted to the satisfaction of the Director of Planning and Community Development;
2. Proof of deed-restricted HUD Fair Market Rent rates for the three (3) created units shall be recorded at SCRD and submitted to the Planning Department prior to the issuance of any Certificate of Occupancy, and;
3. (Though redundant as the applicant is bound to adhere to Site Review Regulations Chapter 153, §§ 153-14 and 153-17 regardless) Applicant shall comply with all applicable sections of sections 14 and 17 within the City of Dover’s Site Review Regulations, as determined by the TRC, and shall implement any amendments or changes the TRC recommends pursuant to those two sections

Additionally, P. Crouser noted that he disagrees that special exceptions are barred from all non-conforming lots in the City. He expanded on that point.

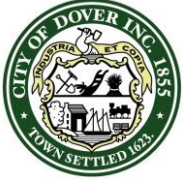
The reason the item was tabled is because the board was deadlocked and therefore the proper procedure is to table to a meeting with more members present.

The zoning ordinance citations are unclear. He expounded on the right of the board to weigh in on whether the parking allows for no backing into the street or not, but not on the related topics of parking lots, driveway size and location, landscaping etc. which will be reviewed by TRC, engineering and Planning Board.

He also addressed the late-filed document to staff and whether that has relevance to a decision tonight.

Jonathan Payne, 2 Maple St. reiterated his concerns about parking and the change of survey/ lot lines.

Hamer commented that the TRC is made up of staff who are paid and though they have the expertise, it is this board’s job to do the best with all the information they have to determine whether claims made by the applicant are reasonable to save the resources of the City at TRC. Determining the reasonableness of proposals is the duty of the Zoning Board. She cited some cases related to this. The required information



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820
Meeting Date:	Thursday, June 19, 2025
Meeting Time:	7:00 pm

such as revised site plan which is necessary to make a determination on the criteria has not been submitted.

At Brown's request, P. Crouser explained the TRC process and what the rights of the public citizens are at and before those meetings.

Onufry inquired about the phrase "sufficient evidence" which P. Crouser addressed.

Sillitta posed a point that if the ZBA grants with a certain number of parking spaces, then the project is reduced at a later date due to TRC or Planning Board input and only three units are finalized, wouldn't the parking be overdone for the project. How is that addressed? P. Crouser noted a reduction would not require the plan to come back to ZBA to decrease the impacts.

Public hearing was closed.

Chair Prior noted the criteria elements that are required to be met for the special exemption and gave his opinions on each noting: HUD rental rates are needed, multi-family units are in this neighborhood, leaning upon TRC and the conditions that will be put on this project will have the project meeting the criteria.

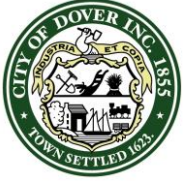
Onufry noted many of the issues that came up tonight are not within the purview of this board. Parking is the overriding issue. The applicant is willing to make concessions to make this project work.

Motion: Onufry moved to grant the special exception with the conditions set by staff. Silitta seconded. Vote: 4-1 with Couturier opposed.

B. *ZONE 2025-0020. Applicant: John Edward Williams, 169 Spur Road, Tax Map L, Lot 45-H, located in the Residential Low Density (R-20), requests a Variance from Section 170-12(B) to allow for the building of a single-family residence within the front and side setbacks.

FX Bruton, Bruton and Berube presented the item. He described the location and the site. He described the proposal to remove the existing shed. He described the existing impervious surface on site and the plans to turn it into buffer vegetation. The lot will go from 50% to 24% impervious surface after the house is razed and the new proposal is in place. He explained the trade off of losing impervious surface by adding a garage within the footprint of the structure, but affects the setbacks due to the increase size. This is the reason for the variance request.

He addressed the variance criteria noting the character of the neighborhood will not be affected and the property will be improved. The tidal setback and flood hazard zone will be maintained. The encroachments will improve from what exists now. There is no benefit to the public by denying the variance. Surrounding property values will not be diminished as the lot will be improved. The lot is unique in that it is a relatively small lot, is not very deep due to the river and is almost covered in the back with the flood hazard zone. That will be addressed by the removal of the pavement and the addition of vegetation.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820
Meeting Date: Thursday, June 19, 2025
Meeting Time: 7:00 pm

Mr. Bruton addressed board comments and questions relating to the amount of feet of encroachment into the front setback, drainage and easements.

Public Hearing opened:

Deena Mottola, 171 Spur Rd, abutter is in favor of the proposal.

Planning Department input:

As the side setback relief is a moot point in this case, we must only scrutinize the front build-to-line relief request. Staff believes the driving factor in seeking that relief is the existence of a recognized AE (1% event) Flood Hazard Zone which covers a significant portion of the property's rear. Though the provided plans do not show the flood zone's boundary, for reference, the existing home, for all intents and purposes, directly abuts the AE Flood Zone, which then runs largely parallel with the existing home. Due to the presence of a Flood Zone on the property, staff would make the argument that impacting the front build-to line is less substantial than is impacting the existing AE Flood Hazard Zone. Given the above, Staff recommends that the Board open the public hearing, accept testimony, and make findings on each of the five Variance criteria. Based on the evidence presented, Staff recommends that this Board approve this variance request with the following conditions:

1. Planning Board approval of an Environmental Conditional Use permit for impacts to the Conservation District, which first requires Conservation Commission review;
2. Planning Board approval of an Environmental Conditional Use permit for impacts to the Wetland Protection District, which first requires Conservation Commission review; and
3. Approval of a NHDES Shoreline permit or a written statement from NHDES stating the permit is not needed.

P. Crouser mentioned a possible, additional condition to implement the vegetation shown on the plan.

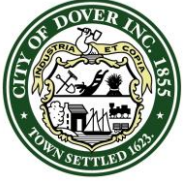
Sam Hayden, project scientist with Hayley Ward addressed the landscape plan and native vegetation.
Public hearing closed

Motion: Sillitta moved to grant the variance as presented as it meets the five criteria with the conditions set forth by staff and the additionally:

4. The maximum distance of encroachment into the front setback is up to 3.3 feet or to allow what is depicted on the plans and to be generally consistent with the landscaping noted on the plans.

Brown seconded. Vote: U/A

C. *ZONE-2025-0012: Applicant Two Hundred Sixth Street, LLC, 200 Sixth Street, Tax Map E, Lot 70-A, located in Innovative Technology (IT), requests a Variance from Section 170-12(B), to allow for a reduced size lot for a public utility use.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: **Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820**
Meeting Date: **Thursday, June 19, 2025**
Meeting Time: **7:00 pm**

FX Bruton, Bruton and Berube and Steve Haight, CivilWorks presented the item. Mr. Berube explained there was a building on site that was torn down with the intent to be restored, but the contractor had some difficulty completing that so now the house is gone.

He described the zone and the parcel. The intent of the parcel will be restricted in use to a Comcast switching station with a parking area so it can be maintained occasionally. The facility will not have anyone present on a regular basis.

The lot will be reduced below the minimum and the back area will not be used for the facility which will be close to the road. The larger than usual setbacks will be maintained.

He addressed the criteria stating the proposal is not in opposition to public interest, the size of the lot will not change the intended use, the facility will be screened from public view, the use is a permitted use in the IT zone, this will provide orderly development and benefit the public interest for Comcast users, there is no public benefit by denying the variance, surrounding property values will not be diminished, the lot is unique as it is surrounded by “Liberty”, and there are steep slopes around it which would be difficult to develop. This lot is at the end of the IT zone near the small, residential lots.

Public Hearing opened:

Mr. Bruton answered board inquiries relating to environmental effects or history of impacts around these units.

Mr. Haight addressed the comment and explained what a switching station does.

Staff addressed board inquiry relating to use of the property if, in the future, these stations are not necessary.

Planning Department input:

The applicant argues that given the nature of the proposed use on the property, in addition to the characteristics of the surrounding area, that requiring the new lot to contain 2 acres of area is unreasonable in this case and offers no additional benefit to the public vs. permitting the 1.3- acre lot. Staff agrees with the applicant’s analysis and emphasizes the following points:

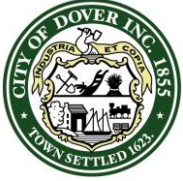
1. Underlying IT district setback values remain unchanged, with or without variance relief, meaning the applicant could situate the proposed building and parking just as close to abutting properties on a 1.3-acre parcel as he could on a 2-acre parcel;
2. Given the unique characteristics associated with the proposed use, namely the proffered lack of personnel/activity outside of maintenance on the facility itself, staff does not see any reasonable public gain to be had from denying the variance request.

Given the above, Staff recommends that the Board open the public hearing, accept testimony, and make findings on each of the five Variance criteria.

Based on the evidence presented, Staff recommends that this Board approve this variance request with the following condition:

1. (For future Site review considerations) This variance approval is based upon the purported use of a Public Utility which will have zero regular employees, customers, or other traffic, outside of routine or as-needed maintenance on the proposed facility itself.

Public hearing closed.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: **Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820**
Meeting Date: **Thursday, June 19, 2025**
Meeting Time: **7:00 pm**

Motion: Couturier moved to grant the variance as presented with the condition set by staff as it meets the criteria. Sillitta seconded.

Vote: U/A

4. OTHER BUSINESS

P. Crouser has some training materials for the board members.

5. ADJOURN

Motion: Onufry moved to adjourn at 9:17pm. Couturier seconded. Vote: U/A