

Zoning Board of Adjustment Meeting
Approved Minutes
July 28, 2026 at 6:00 PM
3 North Lowell Road, Windham, NH
(Community Development Department)

Attendance:

Chairman Mike Scholz- present
Vice Chair Michelle Stith- arrived at 6:55
Mark Brockmeier, Secretary- arrived at 6:45
Pam Skinner, regular member- present
Jeff Faust, regular member- present
Galen Stearns, alternate member- excused

Staff:

George Frangomihalos, ZBA Administrator/Code Enforcement
Anitra Lincicum, minute taker

The meeting began at 6 pm.

Review and Approval of Meeting Minutes:

- 4/28/26
- 5/26/26
- 6/9/26
- 6/23/26
- 7/1/26
- 7/14/26

Mr. Faust made a motion to approve the April 28th draft minutes as amended. Seconded by Ms. Skinner. Vote 3-0. Motion passes.

Mr. Faust made a motion to approve the May 26th draft minutes as amended. Seconded by Ms. Skinner. Vote 3-0. Motion passes.

07_28_2026 ZBA Approved

31 **Mr. Faust made a motion to approve the June 9th draft minutes as amended. Seconded by Ms.**
32 **Skinner. Vote 3-0. Motion passes.**

33 **Mr. Faust made a motion to approve the June 23rd draft minutes as amended. Seconded by Ms.**
34 **Skinner. Vote 3-0. Motion passes.**

35 Mr. Brockmeier joined the meeting at 6:45 pm.

36 **Mr. Faust made a motion to approve the July 1st draft minutes as amended. Seconded by Ms.**
37 **Skinner. Vote 4-0. Motion passes.**

38 Vice Chair Stith joined the meeting at 6:55 pm.

39 **Mr. Brockmeier made a motion to approve the July 14th draft minutes as amended. Seconded**
40 **by Ms. Skinner. Vote 5-0. Motion passes.**

41 There was a brief recess until 7 pm.

42 **Public Hearing**

43 **Case13-2026 Parcel 17-H-10**

44 **Applicant- Karl Dubay**

45 **Owners- 60 Range Rd, LLC**

46 **Location- 60 Range Rd- Nault's**

47 **Zoning- Gateway Commercial/ WPOD/ WWPDP**

48 The application requests a variance from **Sections 601.3, 616.6.4.1, 616.8, 616.8.1,**

49 **616.8.3,** to make modifications to an existing motorcycle and recreational vehicle dealer to
50 include impacts and improvements within the WWPDP and WPOD buffers.

51 **(Continued from April 28, 2026)**

52

53 Mr. Karl Dubay of the Dubay Group addressed the Board and is representing the applicant.

54 Mr. Dubay explained that he has been in communication with staff about the application.

55 The applicant would like to ask for a continuance. The owner, Mr. Nault recently passed

56 away. Mr. Frangomihalos stated that he has been in communication with the town's

57 attorney regarding the case. The applicant does not always receive that complete

58 communication, only parts of that communication. The Board and the applicant discussed

59 if it made more sense to withdraw and reapply with a new application or to ask for a

60 continuance. The manager of the property could not make it this evening due to the death

61 of the owner as well. The applicant will be removing the winter storage of boats. Mr.

62 Frangomihalos stated that if the applicant were to make several changes: one of the uses

63 and a buffer and one other change. The Board discussed the timeline of re-application or a

64 continuance.

Mr. Dubay decided to withdraw the application without prejudice with the understanding that he would be re-applying almost immediately. Chairman Scholz stated that if an application had substantial changes, a new application was going to be requested by the Board moving forward.

The Chair invited public comment. There was none.

Mr. Faust made a motion for Case 13-2026 to accept the withdrawal of the application without prejudice. Seconded by Vice Chair Stith. Vote 5-0. Motion passes.

Case 19-2026 Parcel 1-C-10

Applicant- Julia & Corey Shepherd

Owners- Same

Location- 165 Kendall Pond Rd

Zoning- Rural District/ WWPDP

The application requests a variance from **Sections 601.3, 601.4.2 and 601.4.8** to construct an attached 24' wide garage with a 30' x 30' ADU, with a new septic design to be approximately 33.8' from a wetland, where a 100' buffer is required under the Windham Zoning Ordinance. (WZO). (Continued from May 26, 2026 and June 23, 2026)

(The applicant requests a withdrawal for which The Board shall consider)

Mr. Faust made a motion for Case 19-2026 to accept with withdrawal. Seconded by Vice Chair Stith. Vote 5-0. Motion passes.

Case 35-2026 Parcel 2-B-239

Applicant- Nick Couture; Crossroads Contracting

Owner- Jason Noel

Location- 30 Telo Rd

Zoning- Rural District/ WWPDP

The application requests relief from **Sections 601.4.1 and 601.4.3** to permit a 30' x 38' detached garage and a 38' x 32' addition with a 10' x 16' bump out, and a 20' x 15' pavilion within the 100' WWPDP stream buffer, and within the 25' buffer of the stream's associated wetland. Under the Windham Zoning Ordinance, a buffer of 100' from a brook or stream and 25' of a wetland less than a half-acre in size is required.

(Continued from July 14, 2026)

Mr. Nick Couture addressed the Board. This was a previously continued case. Mr. Couture discussed the drainage on the plan. The Board discussed the pool drainage system with the applicant, Mr. Jason Noel. Mr. Noel explained that a pool is slightly drained towards the end of a season and that water is drained in a yard and has no impact on the surrounding

area. Mr. Couture did explain that he is responsible for the drainage of the gutters and other systems. Mr. Noel and Mr. Couture explained that the pool and pool house are approaching the end of life and that will be removed from the site. There is a two-car garage and there will be an office over the garage. The applicant understands that if the office were to be converted to an ADU, that would require a separate application. The applicant discussed the location of the garage in relation to the necessary setbacks.

The Board invited public comment for a second time. There was none.

The Board and the applicant discussed the Watershed Protection District and where the wetlands were nearby. Mr. Frangomihalos stated that the wetland requires a 25-foot setback and not more. The Board and the applicant viewed the wetland on and near the property. There will be no more than 1 tree taken down on the property. Mr. Noel stated that this will improve the buffer in his estimation. The construction on the property will be further away from the wetland and less of an encroachment.

Mr. Frangomihalos explained that the wetland nearby is less than half an acre, hence, the need for the smaller buffer. Mr. Noel stated that the office is just over 900 square feet.

Mr. Karl Dubay addressed the Board. Mr. Dubay has been a neighbor for years and the applicant has maintained their property immaculately for many years and he is in support of the application. Mr. Dubay asked about the discussed wetland as he has never observed a wetland that would require a larger buffer.

Mr. Couture submitted a color copy of the plan that was submitted into the record.

The Board entered deliberative session without opposition.

Vice Chair Stith stated she hopes the office does not become an ADU. Mr. Brockmeier stated that the applicant will need to come back in order to do that. Mr. Brockmeier thinks his drainage concerns were answered. Chairman Scholz does think this meets the first 2 criteria and the substantial justice prong. The wetlands impact the location of the garage.

Mr. Brockmeier made a motion to approve the variance request for Case 35-2025 with the condition that the current shed, pool house and propane tanks be removed per plan submitted and signed and dated by the Chair. Seconded by Mr. Faust. Vote 5-0. Motion passes. The Chair advised of the 30-day appeal period.

Findings of Fact:

Criteria 1 & 2 No issues with health, safety and welfare, and the proposed plan does not alter the essential character of the neighborhood.

Criteria 3 No public interest has been articulated which would defeat the applicant's interest in this instance.

Criteria 4 No evidence was presented which would, in the experience, knowledge, and understanding of the Board members, decrease value of the surrounding properties.

Criteria 5 Proposed plan encroachment on wetlands is minimal given there is no possible alternative placement of buildings available given the wetlands setbacks.

Mr. Faust made a motion to approve the findings of fact for Case 35-2026 as presented. Seconded by Ms. Skinner. Vote 5-0. Motion passes.

Case 28-2026 Parcel 18-L-300

Applicant- The Dubay Group

Owner- Angle Wood Pond RT, Inc

Location- 2 Sharma Way

Zoning- Residential District A/ Professional Business & Technology District/ WPOD

The application requests a variance from **Sections 603.1.1, 616.6.4.2 & 702/Appendix A-1**, to allow the previous approvals granted for roof recharge and porous pavement credits in meeting the 30% impervious calculations, per the ordinances in place when the phased project was approved, and to modify the approved 31 unit elderly townhouses with 42 bedrooms and reduce it to 16 two-bedroom detached market homes, that would result in 32 bedrooms, with increased buffers. (Continued from June 23, 2026)

Mr. Brockmeier read the case into the record.

Mr. Karl Dubay of the Dubay Group addressed the Board and is representing the applicant. Mr. Dubay stated he is asking for a continuance to be prepared for the 2 variances. The elderly housing regulations have changed since the application. Mr. Dubay stated he would like to double check the elderly ordinance in the A-1 district and he would like staff to be able to consult with town counsel. Mr. Dubay stated there were 2 parts to the variance, one of which had to do with impervious surface (roof recharge and roof area).

The Chair invited public comment.

Ms. Vanessa Nysten, Edgewood Road, addressed the Board. Ms. Nysten stated that this property abuts properties on Edgewood Road and she would like the vegetative buffers shown and noted on the plan. The buffers should screen the residential use.

Vice Chair Stith made a motion to continue Case 28-2026 to August 11th at 7 pm. Seconded by Mr. Faust. Vote 5-0. Motion passes.

Case 38-2026

Parcel 17-J-145

Applicant- Evan Marek

Owner- Bridget Hughes & Evan Marek

Location- 12 Gardner Rd

Zoning- Residential District A/ WPOD

The application requests a variance from Section 702/ Appendix A-1, to permit an approximate 30' x 8' deck to be approximately 9' from the westerly lot line, 19' from the easterly lot line, and 19' from the southerly lot line, and to permit the total lot coverage to go down from 43.4% to 36.3%. Under the Windham Zoning Ordinance, a 30' side and rear yard setback is required, and the lot coverage shall not exceed 30%.

Mr. Brockmeier read the case into the record. Mr. Frangomihalos stated that the percentage of impervious coverage is an error on his part but the application of the applicant is correct.

Mr. Evan Marek, the applicant, addressed the Board. Mr. Marek stated they are looking to add a deck to their property and they have verbal consent from their neighbors that they are fine with the proposed plan. Mr. Brockmeier read one of the letters from the abutters into the record (16 Gardener Road). Mr. Marek reviewed the 5 criteria contained in the public packet. Mr. Marek discussed the retaining walls and the walkout basement. The Board and the applicant discussed the area that is now grass and if it would prevent less run off to have gravel in that area. There will be no trees taken down on the property for the project. Vice Chair Stith asked if the applicant was comfortable having the conditions that the porch would not be screened in or enclosed.

The Chair invited public comment. There was none.

Chairman Scholz stated that the applicant is looking for 43.4% lot coverage; this is an increase from 39.3%.

The Board entered deliberative session without opposition. Vice Chair Stith stated that she is fine with this as long as the condition is put on the deck that it will not be roofed, screened or otherwise enclosed. Chairman Scholz stated he does think it meets the criteria. The Board discussed the best way to mitigate against the run-off, grass or gravel.

Mr. Faust made a motion for Case 38-2026 to grant the variance as requested with the condition that the deck will not be roofed, screened or otherwise enclosed per plan submitted and signed and dated by the Chair. Seconded by Ms. Skinner. Vote 5-0. The Chair advised of the 30-day appeal period.

Findings of fact:

208 Criteria 1 & 2 No issues with health, safety and welfare, and the proposed plan does not
209 alter the essential character of the neighborhood and the deck is a common feature of
210 homes.

211 Criteria 3 No public interest has been articulated which would defeat the applicant's
212 interest in this instance.

213 Criteria 4 No evidence was presented which would, in the experience, knowledge, and
214 understanding of the Board members, decrease value of the surrounding properties.

215 Criteria 5 No deck can be constructed that does not impact the setback requirements. The
216 deck is a reasonable one that allows the homeowner enjoyment.

217 **Mr. Brockmeier made a motion to approve the Findings of Fact for Case 38-2026. Seconded by**
218 **Mr. Faust. Vote 5-0. Motion passes. The Chair advised of the 30-day appeal period.**

219 **Public Meeting**
220

221 **Case 27-2026 Request for Rehearing** Parcel 19-B-507

222 **Applicant- Cally & Lawrence Weymouth, III**

223 **Owner(s) – Same**

224 **Location- 63 Mammoth Rd**

225 **Zoning- Rural District**

226 The application requests a rehearing after being denied a variance at the June 16, 2026 ZBA
227 meeting.

228

229 Chairman Scholz stated that he believes the minutes are comprehensive. The use of the
230 garage was discussed. Regarding the variance from 2025, there was an opportunity to
231 appeal that decision and it was not appealed. This condition was also deliberated during
232 the recent variance request. There was discussion about the original variance requested
233 for the home on the lot and the conditions placed on the garage, and the Chair believes the
234 correct decision was made and there was no technical error made.

235 The Board agrees there is no mistake in fact, mistake in law, or mistake in process and no
236 new information presented that could not have been presented at the original hearing.

237 **Mr. Brockmeier made a motion to deny the request for rehearing for Case 27-2026 for**
238 **the above-mentioned reasons. Seconded by Mr. Faust. Vote 5-0. Motion passes.**

239 **Case 14-2025 HAB Reverse & Remand** Parcel(s) 17-G-20 & 17-G-6

240 **Owner- Arena Square LLC C/O Middlesex Glass Co.**

Location(s)- 82 Range Rd & 102 Indian Rock Rd

Zoning- Gateway Commercial District/ WPOD

The application is requesting relief to construct a multi-family development of 350 units and associated amenities in the Gateway Commercial District, where multi-family uses are not permissible. Ten percent of the proposed units are intended to be designated as workforce housing.

On June 25, 2026, the NH Housing Appeals Board Case (2025-013-ZBA), voted to uphold their decision to REVERSE and REMAND the Zoning Board of Adjustment use variance denial of April 22, 2025. The Board will consider the five criteria in a resumed deliberative session in a public meeting.

The Board looked at the totality of the project, without regard to percentages of workforce versus market-rate units. While acknowledging the inclusion of Workforce Housing units, the presence (or absence) of such units does not affect the evaluation of the first criteria does not affect the first two criteria in that there are no differences in terms of design, nature of the building, noise, or traffic conditions. Board members believe that the proposal will result in a permanent negative change of look and feel of the neighborhood, which will impact persons both within and without the district.

Because of the impact on the community for a project of this scale, and in consideration of substantial justice, the workforce housing percentages mandated by our ordinance versus market rate housing, when viewed through the public interest lens (project size, scale, traffic, public safety, schools), the applicant has not demonstrated that substantial justice will be done in this instance.

The Workforce Housing designation does not impact the appraisal information submitted at the rehearing or the testimony given at the hearing. The Board continues to give greater weight to the property abutters who have testified that their property values will be negatively impacted.

The workforce housing designation by itself does not impact hardship since those are strictly property related. The Board, by virtue of prior variances, has determined that the property does have Special conditions which the applicant could utilize for a commercial use, in a commercial district, consistent with the zoning objectives of the Gateway district. The proposed use is not a reasonable use given the scope and magnitude of the project and its impact on the surrounding community (traffic visual impact, noise, demands on public services, etc.).

Mr. Faust made a motion to reaffirm the findings of fact for Case 14-2025 Seconded by Ms. Skinner. Vote 5-0. Motion passes.

The Board discussed codifying changes and when that would be done. The Board discussed a few upcoming scheduling issues based on a meeting on voting day.

07_28_2026 ZBA Approved

278

279 **Vice Chair Stith made a motion to adjourn at 9:09 pm. Seconded by Mr. Faust. Vote 5-0.**

280 **Motion passes.**

281

282 Respectfully submitted by Ms. Anitra Lincicum

283