

FINAL
Zoning Board of Adjustment
February 11, 2026

Members Present: David Blohm, Chair; Henry Thomas, Vice-Chair; Larry Briggs, Member; Peter Fuller, Member; Patricia Sherman, Member, Alex Azodi, Alternate

Members Not Present: Steve Hurd, Alternate; Katheryn Holmes, Alternate

Town Personnel: Donna Long, Recording Secretary

Public: Barbara Lanzillo, Dick Lanzillo, Gordon Dickey, Joan Dickey, Bob Read, Alan Lane, Johnny Creedon, Scott Warde, Sandy Warde, Kelsey Nippe, Will Reddington, and others.

Mr. Blohm called the meeting to order at 7:00 p.m.

Minutes

The Board reviewed the minutes of December 10, 2025. A correction was made. Mr. Thomas made a motion to approve the minutes as amended. Mr. Briggs seconded the motion. All in favor.

Mr. Fuller recused himself from the meeting. Mr. Azodi was named a voting member for this meeting.

Cases

Case #26-01- Kelsey Nippe (agent), Nippe & Poliquin Fam Rev Trust (owner), for property located at 14 Autumn Lane Newbury, NH, will seek a Variance from the requirements of Paragraph 15.2.1 of the Newbury Zoning Ordinance to permit the following: Re-constuction of a 24' x 24' detached non-conforming garage with an addition above consisting of a bedroom, bathroom, kitchen and living room and construction of a screen porch with balcony above connecting the non-conforming garage and non-conforming seasonal cottage outside of the 24' x 24' garage footprint, seasonal cottage to remain seasonal whereas garage addition to be year round. Newbury Tax Map 007-192-371.

Mr. Blohm read the public notice into record.

Mr. Blohm said that since this was a continuance, he would like to have Mr. Reddington give an overview of the project.

Mr. Briggs said he does not have a complete stormwater management plan in his paperwork from the owner.

Ms. Nippe said there is one report from the engineer and it was stamped by them and that was everything that they provided when she hired them for stormwater management and

their company specializes in that. Mr. Briggs said it does not have a complete stormwater management plan. Mr. Blohm said it is a construction plan.

Mr. Reddington presented to the Board. He explained that Ms. Nippe bought the property in 2020 with the intention of making this a permanent single-family home. Mr. Reddington said a new septic system went in in 2022 and a new well went in in 2024. Mr. Reddington said the 2-bay garage had to be demolished so they could put in the well. They left the slab so they could use the same footprint. Mr. Reddington said because Ms. Nippe wants to turn this residence into a year-round residence, there was an opportunity to add living space above the garage. This would normally would be an ADU but DES has notified them letting them know it can only handle a two-bedroom house on the lot and the property cannot handle an ADU. They will now need to connect the two to make it one structure so it will be compliant. This is why they are in front of the ZBA for a variance.

Mr. Blohm said a complete stormwater management plan is not in this application and then explained what a storm water management plan was. Mr. Briggs said they asked for it in the past and it is on the checklist of what the ZBA needs. Mr. Blohm said this is a stormwater pollution prevention plan. Mr. Briggs said they came within 1% of the impervious surface needed for this project and now they are missing that part of the plan that shows where the stormwater will go. Mr. Reddington asked if this is a zoning requirement. Mr. Briggs said it is on the checklist when they came to apply for a variance.

Mr. Reddington would like the Board to proceed with the application and if they grant the variance, that they grant with the condition that they submit a stormwater management plan.

Ms. Sherman said the site plan shows a survey of where the existing garage was but it does not show the existing house, roof lines and it has a note that describes that the lot is 1.5 acres not 1.4 acres so therefore the setbacks shown are not correct. Ms. Sherman said this is not an acceptable site plan in terms of what they would expect for a proposed site. She said there is no indication as to where all the different pervious and impervious surfaces are which are needed to determine the calculations.

Ms. Sherman said the information is pieced and the site plan would need to be completely redrawn as a condition because it is not accurate and should not go into the record. Mr. Reddington asked if this needs a site plan and Ms. Sherman said it most certainly does. And it needs to be a stamped survey site plan. She said the plan that was offered is not what she would normally expect from an engineer stamped plan. Ms. Sherman said there is so much misinformation on this drawing and it is not accepted for the records for a variance.

Mr. Reddington asked if the plan is unacceptable because it does not show the entire dimensions of the house and Ms. Sherman said it doesn't even show the entire outline of the existing house. It does not show the connection between the garage and the house.

Mr. Reddington said this is a current plan and Ms. Sherman said they asked for a proposed site plan. Mr. Briggs said they need both.

Mr. Reddington reviewed what is needed and reiterated that they will need a stormwater management plan and an updated site plan.

Mr. Blohm said this is an unprofessional approach to what they normally see especially something as dramatic as this.

Mr. Azodi said we have gone through this and asked for more information before.

Ms. Nippe showed a site plan that was originally submitted.

Ms. Sherman said a site plan is based on a survey particularly for a variance. Mr. Blohm said there are no dimensions on this site plan.

Ms. Sherman said if they build the garage according to the plans, there would be 676 sq. ft. with eaves instead of 655 sq. ft. and they are right on the edge.

Mr. Reddington said there is a proposed diagram of the unit.

Ms. Sherman said this is not adequate for the building inspector or the contractor because the numbers are not correct, the existing house is incorrect.

Mr. Briggs said the Code Enforcement Officer said he will be looking for this as well.

Mr. Azodi asked why we are looking at things from the old case since this is being treated as a new case. Mr. Blohm explained they are accepting references from the old case because they asked to reference the old materials.

Ms. Sherman had a comment on the height of the structure. Ms. Sherman said this is not the way to dimension a building. It should also have a finished floor elevation on all buildings on the site so they can see how they relate to each other. She said what doesn't show here is the dimensions of the building from the finished floor of the first floor, finished floor of the second floor, and eaves height for a final dimension. Ms. Sherman said she comes up with 26' rather than 29'. She said she does not trust these numbers because they don't jibe. She said the building might be lower than they think.

Mr. Blohm asked who created the plan and Ms. Nippe said Jack Krantz who is a design builder out of Henniker.

Ms. Sherman said when they try to put all the things together it doesn't jibe. Mr. Blohm said normally things are buttoned up complete. Mr. Briggs said the Code Enforcement Officer will have the same concerns.

Mr. Briggs said he has been to the site twice before and he is concerned about the state approved septic system. He is concerned about the porch of the existing structure. He asked if it set up as another bedroom in the summer because he saw bunk beds and he is concerned because it is only a two-bedroom septic system. He is wondering if the tank is sufficient. He asked if they are using the porch as a summer bedroom. Mr. Reddington said it is approved for two bedrooms and they are proposing two bedrooms.

Mr. Blohm asked if this is going to be a fulltime residence. Ms. Nippe said she sees it as a retirement home. Mr. Azodi asked if this would be a rental until she uses it as a retirement home. Mr. Blohm asked about when this would be. Mr. Reddington said the intent is to convert this property to a single-family unit.

Mr. Thomas said it doesn't matter when she would be moving in.

Mr. Reddington read the following:

There being no further questions from the Board, Mr. Reddington addressed Article 16.8 of the Zoning Ordinance:

16.8.1 The variance will not be contrary to the public interest because: It will not alter the essential character of the neighborhood nor will it threaten public health, safety or welfare. The Applicant proposes to re-construct an existing garage and attach the garage to the existing non-conforming dwelling by a small, screened porch. Additions with connections from one structure to another by porches and balconies are common in the area. The purpose of this variance is to convert the dwelling to a year-round residence. Many other properties in the area have replaced aging seasonal cottages and non-conforming structures with more modern year-round structures. Thus, it will not alter the essential character of the neighborhood. Likewise, granting the variance will not threaten public health, safety or welfare because the proposed use is a single-family home which is explicitly permitted in this zone. The screened porch will be set back farther from the road than the pre-existing garage and will therefore not make the structure more non-conforming. Height restrictions will be observed and the 30% impervious surface requirement will be met.

Ms. Sherman said this makes it more non-conforming. Mr. Blohm explained it is taking up more square footage.

16.8.2 Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship:

- a) *There are special conditions in the property that distinguish it from other properties in the area because:* The property has a seasonal cottage in front that cannot be used year round. The state approved septic system allows for year-round use, however, it cannot support a traditional accessory dwelling unit as permitted under the zoning ordinance. Therefore, only structure can support a dwelling unit unless the two were connected as one single family residence.

- b) *The property is different in a meaningful way from other properties in the area because:* The property has not been converted to year-round use like many of the other properties in the area. The Applicant cannot have an accessory dwelling unit on the Property so the garage and the cottage must be connected. This will be the Applicant's primary residence and permanent retirement home and granting the variance will enable year-round use.
- c) *The property is burdened more severely by the zoning restrictions because:* As a non-conforming property within the shoreland zone it has additional restrictions above other lots in the neighborhood. There are two pre-existing nonconforming lots which limit the development of the Property. The existing cottage is only suitable for seasonal-use and currently, the Applicant has to move seasonally due to the inability to stay year-round in the seasonal cottage. Until recently, the Applicant did not have drinking water other than in the summer. Further burden on the Applicant was created by having to remove the garage to install the well. As a result, rebuilding the garage as an addition will aid in removing this burden permanently allowing the Applicant to use the Property as intended and in accordance with the state approved septic system which supports year-round use for a two-bedroom home. The majority of the homes in the area are used year-round with very few seasonal cottages remaining.
- d) *Because of the special conditions of the property, the proposed use of the property is reasonable because:* The applicant intends to use the property as her primary residence and eventual retirement home. Use of the property as a single-family home is per se reasonable because residential use is permitted in the residential zoning district.

16.8.3 The variance is consistent with the spirit of the ordinance because: It will not alter the essential character of the neighborhood, nor will it threaten public health, safety or welfare. Additions with connections from one structure to another with porches and balconies are common in the area. The proposed use is a single-family home which is explicitly permitted in this zone. The screened porch will be set back farther from the road than the existing garage and will therefore not make the structure more non-conforming.

16.8.4 Substantial justice is done because: Granting the variance will enable the applicant to use the property as a permanent year-round residence. Currently, the existing cottage is only suitable for seasonal occupancy. Granting the variance will allow the Applicant to replace the pre-existing garage with a modern garage and living space. This reconstructed garage will be attached to the cottage which will be renovated so that the garage, screened porch and cottage collectively constitute one single family home.

There is no measurable gain to the public by denying this variance. The garage will be constructed on the footprint of the previous garage and the small, screened porch will be set back farther from the road than the garage. The Applicant, however, will suffer substantial loss should the variance be denied because the property cannot support an accessory dwelling unit and the cottage by itself is not an ideal living space for a year-round residence. Further, the proposed project is consistent with the area's present use. Many other properties in the area have replaced aging seasonal cottages with more modern year-round structures. The property will maintain its use as a single-family

residence which is consistent with the neighborhood and is permitted under the zoning ordinance.

Mr. Blohm asked if they have considered taking down the existing cottage structure to put in another structure. Mr. Reddington said the purpose to is to maintain the character of the existing cottage. Mr. Blohm said that is not a reason to grant this. Mr. Blohm said he does not believe there is a hardship here. Mr. Reddington said the property cannot be used as a fulltime property.

Ms. Sherman asked if Ms. Nippe being a realtor. Ms. Nippe confirmed she was. Ms. Sherman said she finds it a strange project. The finished floor to the garage and the finished floor and of the existing house and the difference is about 3 – 4 ft. She said there are no stairs on the plan.

16.8.5 The value of surrounding properties will not be diminished because: The variance requests to remodel a residential property within a residential zone which is allowed by the current zoning. Renovations and replacement of aging cottages or other structures are common in the area. The remodel will have minimal impact on the neighborhood, and will not diminish property values.

All height restrictions will be observed. The view of the lake for surrounding properties is owned by the waterfront lots only. All lots on the street benefit from the shared water view through the street and the right of way that will not be affected with the raised height of the garage addition. The maximum height of the addition will be 29' 2 & 7/16" which is similar or less than the height of the 3 existing waterfront homes nearby. The increased size of the proposed garage, even at approximately 30', will remain at a lower elevation than the nearby waterfront homes. The proposed plans are a significant improvement to the 1930's property. The style and character of the original structure will be incorporated into the new design. As a professional real estate broker for over 25 years in Southern NH; it is the Applicant's professional opinion that these improvements will further improve the surrounding property values and will not diminish them.

Mr. Blohm opened up public input.

Mr. Blohm read the following letter into the record from Eric Sommers on behalf of Alan Lane:

Dear Board Members:

I write on behalf of Alane Lane, who owns the property at 6 Autumn Lane, to express his continued opposition to the Nippe & Pouliquin Fam Revocable Trusts (the "Nippe Trust") application for a variance for 14 Autumn Lane. The Nippe Trust's renewed application is substantially the same as its prior applications. Mr. Lane voiced several objections to those prior applications, including that replacing the single-story detached garage with a two-story self-contained year-round dwelling unit is a significant change in use and would make the already non-conforming lot even more non-conforming. For the

reason already in the record and the reasons outlined below, Mr. Lane continues to oppose the Nippe Trust application.

1. Direct Impact on Abutter at 6 Autumn Lane

The proposed two-story dwelling unit is at least double the height of the former garage. The new application still does not include dimensions for the demolished garage or photos of its former appearance. The Applicant's failure to fully document the proposed changes should preclude her from disrupting that they will significantly impact Mr. Lane's property, as outlined below.

An old photo shows that the former garage was likely less than half the height of the proposed new dwelling unit.

Using the side and garage doors as a reference point at approximately 7 feet (indicated by the red line), the former garage appears to be 11-12 feet high. By contrast, the proposed new structure is nearly 30 feet high and it visually dwarfs the existing cottage.

The drawing below shows the elevation of the proposed addition as viewed from Mr. Lane's property.

If allowed, this new non-conforming structure will significantly impact Mr. Lane: the proposed dwelling unit is located less than 20' from his property and will obstruct his view of the lake and the openness of his lot. Below is the current view from his living room toward the Applicant's lot. The white van, parked on the garage slab, shows the approximate location of the proposed new dwelling unit.

Imagine now the same photo with a 24' x 30' tall façade near the edge of Mr. Lane's property, rising above the current visible rooflines. This transforms the view from his property, which included a view of the lake with some cottages in the foreground, into a view of the side of a garage.

2. The Application Continues to Ignore Important Concerns

The "renewed" application continues to suffer from the same infirmities as the Nippe Trust's prior application. Although requested by the Board, the Applicant did not appear to submit an actual site plan. Stormwater management is a significant concern given the lot's small size and its proximity to the lake. There is no explanation of how the Applicant will manage stormwater beyond construction. The new "garage" is, in fact, a separate, self-contained dwelling unit with a full kitchen, bath, and a separate entrance. These are all important issues given the area's compactness and the impact that changes will have on neighbors, the surrounding land, and the lake.

3. The Application Does Not Meet the Criteria for a Variance

Regardless of those issues, the application should be denied because the Applicant cannot demonstrate that it meets the criteria for granting the variance under RSA 674:33.

The Board's questions at the first hearing sought information to evaluate those criteria, specifically whether the variance is contrary to the public interest and in the spirit of the Town's ordinance. Replacing a garage on a non-conforming lot in a small neighborhood with a year-round dwelling unit more than twice the garage's original height neither meets the letter nor the spirit of the Town's ordinance. It is also not in the public interest to encourage expansion or changes of non-conforming lots, or to allow changes that make already non-conforming uses even more non-conforming. In addition, the proposed structure will affect the value of Mr. Lane's lot and his enjoyment, as it will significantly diminish his already somewhat limited view.

Importantly, the Applicant cannot show undue hardship. "To be entitled to a variance, the hardship complained of must arise through circumstances or conditions uniquely affecting the property. *Kwader v Town of Chesterfield*, 2011 NH LEXIS 45, at *9 (March 21, 2011). The Applicant argues that the fact that the cottage is seasonal is a "special condition that distinguishes its property from others in the area. Whether or not a cottage is seasonal or winterized is not a special condition of the property, but rather a condition of the house. In addition, the application for a variance is not based on winterizing the current residence, but instead on building a new self-contained two-story dwelling unit to replace a small previously existing garage. The Applicant has not demonstrated that the only option to convert a three-season cottage into a four-season cottage is via the proposed expansion and change in use for the garage. The only burdens identified by the Applicant are personal to the individuals who want to occupy the property year-round. The other three-season cottages in the area are similarly situated. Cottages can be winterized without converting a garage to a dwelling unit or replacing a twelve-foot high garage with a 30-foot high one that impacts the neighbor's use and enjoyment of their property.

The Applicant's other reasons, including that the property falls within shoreland zoning or that it had to install a well, are not undue hardships. Restrictions based on shoreland zoning are not different from any other property that also falls within the shoreland zone. Installing a well does not create a hardship, nor does it require a property owner to rebuild a one-story garage and then add a second-story apartment to that garage.

For all those reasons, the reasons cited at the first hearing, Mr. Lane requests that the application be denied. Mr. Lane also joins in the objections of the other abutters.

Mr. Blohm asked if there were any other comments from the public.

Mr. Warde asked what would happen if the well fails because with the new structure they won't get to the well.

Mr. Blohm said that is a good point.

Mr. Dickey said he is an abutter. He said every neighbor is not in support of this project. He said it shows a lack of a concern for the neighbors. For example, the septic system is within 30' from the neighbor's well that is already there. Mr. Briggs asked if it is totally sealed and Ms. Nippe said it was installed because the old one failed. Mr. Dickey said this new structure will affect the values of the homes on Autumn Lane. He said also runoff water is a problem and this will make it worse.

Mr. Azodi asked how Mr. Dickey is affected. Mr. Dickey said the run off will affect him because he is lower than this property.

Ms. Nippe was asked not to put things on his side of the property. Mr. Blohm thanked him for his input.

Ms. Lanzillo asked about not having the correct survey. She wanted to know if that was ever changed. She said she has all the original plans and deeds for the property. Ms. Lanzillo showed the Board the plans and designs. Discussion ensued.

Mr. Blohm closed the public portion of the meeting and opened discussion with the Board.

Mr. Briggs said he had a question regarding 16.8.5. He said he is concerned about the affect on property value.

Mr. Reddington read from the Newbury ordinances. The ordinance allows structures up to 34' structure and leave it empty and no variance would be needed. Mr. Reddington said Ms. Nippe is proposing a structure 4' below the maximum.

Mr. Reddington said they are looking for a variance for a screened porch. Mr. Thomas said by right they can do everything in their plan except for the breezeway. He said that is why they needed the variance.

Mr. Reddington asked for a continuance and Mr. Blohm said they have continued this twice before.

Ms. Sherman said she respects Ms. Nippe's desire to maintain the cottage as part of the ambiance, but the proposed garage does not match this desire.

Mr. Blohm said that a stormwater management plan, a site plan and an elevation plan that are all correctly done would need to be shown if this is to be continued.

Mr. Blohm asked if the Board would agree to allow a continuance.

Mr. Thomas said it would be great if they looked at their current stormwater management and the plan should show it is being made better.

Ms. Sherman said the breezeway is an odd space. Ms. Sherman asked if they had considered making more use of the footprint of the garage and make better use of the breezeway for the use.

Mr. Blohm made a motion to provide a continuance. Mr. Thomas seconded the motion.

- Mr. Azodi was in favor of a continuance
- Ms. Sherman was in favor of a continuance
- Mr. Briggs was not in favor of a continuance

Four in favor and one not in favor of a continuance. The continuance will be granted.

Mr. Blohm asked about a date for the continuance. The continuance will be a date certain of May 13, 2026.

Mr. Briggs made a motion to adjourn. Mr. Blohm seconded the motion. All in favor.
The meeting adjourned at 8:38 p.m.

Respectfully submitted,

Donna Long
Recording Secretary