Town of Milford
ZONING BOARD OF ADJUSTMENT
Select Board Meeting Room, Town Hall
JUNE 4, 2026, 6:00 pm
Public Hearings

Case #2026-04: Katelyn Brown, VARIANCE

PRESENT

Members:	Andrea Kokko, Chair
	James Austin, Alternate
	Rich Elliott, Member
	Kevin Overby, Member
	Mike Thornton, Alternate
Non-Members:	Kyle Finnell, Director, Community Development
	Tina Philbrick, Select Board Representative

NOT PRESENT

Members:	Joan Dargie, Vice Chair
	Jim Pouliot, Member
Non-Members:	Terrey Dolan, Town Planner, Community Development
	Jane Hesketh, Recording Secretary, Community Development

MEETING AGENDA

1. Call to Order

2. Public Hearings:

a. Case #2026-04 Accessory Dwelling Unit (ADU) Variance Request in the Residence "A" Zoning District for a requested relief from the maximum allowed ADU square footage, located @ 47 North Street, Map 22 Lot 53 The applicant, Katelyn Brown, is requesting a Variance seeking relief from the maximum square footage (i.e. 1,100 sq ft.), allowed for either Attached or Detached Accessory Dwelling Units (ADU's) pursuant to Section 7.16.A.1.c of the Milford Zoning Ordinance; in order to create a larger (detached) ADU, comprised of 1,178 square feet, which exceeds the maximum square footage permitted.

3. Other Business: TBD

4. Mtg. Minutes Approval: 05/21/2026 Mtgs.

5, Next Mtg. TBD

6. Adjournment

MINUTES OF THE ZBA MEETING JUNE 4, 2026

Chair Kokko opened the meeting at 6:00 pm. by welcoming everyone and introducing herself.

The Chair stated you may attend this meeting in person at the Milford Town Hall Select Board Conference Room or you can participate in the public meeting remotely from home or via Zoom.

Remotely: +1 646-558-8656, Meeting ID: 869 6740 8911 and Passcode 088861
Zoom: www.zoom.com, Meeting ID: https://us02web.zoom.us/j/86041069909
Password: SSkKykuaC09h62BcBV42BaQwpGZPsk

Chair also provided the following information:

A digital copy of the meeting materials can be found on the Town website at:
https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda- 19March2026.
Live streaming on Granite Town Media, Government Channel 8:
http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=.

Roll call attendance. Those present at Milford Town Hall: Mike Thornton, Kevin Overby, James Austin, Rich Elliott, Andrea Kokko.

Chair noted Alternate members James Austin and Mike Thornton would be seated as full members to bring the board attendance to 5 voting members.

Chair continued by stating there is one case to be heard. Any cases continued, tabled or postponed will be considered at the next regularly scheduled meeting, unless an alternate location, date and time are scheduled at the end of the hearing. There will be no additional notification to the applicant or abutters when a hearing is either continued or tabled to a date, time and place certain

2. PUBLIC HEARINGS

a. Case # 2026-04 Accessory Dwelling Unit (ADU) Variance Request in the Residence "A" Zoning District for a requested relief from the maximum allowed ADU square footage, located @ 47 North Street, Map 22 Lot 53.

Applicant Katelyn Brown came forward to the table to present the Variance request:

- There is an existing garage that has been there for decades, and it is about 1178 to 1180 sf; the applicant wants to use the entire space.
- Initially, when this application was heard, the Building Inspector noted the entire space could be used and the space for a Mechanical Room would be exempt.
- After the Town vote that changed ADU limits, the space for a Mechanical Room can no longer be exempt.

Applicant then moved to presenting the criteria as submitted in the case presentation packet pages 8-10.

Variance Criteria per New Hampshire RSA 674:33.I:

1. Granting the variance would not be contrary to the public interest because:

"Allowing the ADU to use the full square-footage of the existing garage will not alter the essential character of the neighborhood. As noted, the ADU conversion will not feature exterior alterations outside of the front entrance, and thus the garage will remain consistent with the character of the neighborhood where garages and outbuildings are common. Similarly, utilizing the full area of the existing garage will not threaten the public health, safety, or welfare. The garage has not caused any public health or safety issues and there is no reason to believe any will arise if the variance is granted."

2. PUBLIC HEARINGS

a. Case # 2026-04

Variance Criteria per New Hampshire RSA 674:33.I:

2. The spirit of the Ordinance is observed.

"As noted above, the improvements will be consistent with the character of the area and will allow the property to be put to its highest and best reasonable use without negatively impacting any neighbor or the public at large. Given the existence of the garage, the proposal is minimal. There would be no discernable change to the basic and essential character of the neighborhood by the granting of this variance, which observes the spirit of the ordinance."

3. Granting the variance would do substantial justice because:

"Denying this application will prevent the applicant from reasonably utilizing the entire existing garage as an ADU. Granting the application will benefit not only the applicant, but the neighborhood and the public at large, by improving the utility of the building and adding to the Town's housing stock in keeping with the goals of the amended statute."

4. The values of surrounding properties would not be diminished.

"The applicant's proposal is not overly large and will be consistent with the intent of the Zoning Ordinance and character of this neighborhood. Since no exterior expansion is proposed, there will be no effect on the values of surrounding properties if this variance is granted. There will be no public health or safety issues if the variance is granted as this lot has sufficient area to support the proposal and there will be no material increase in traffic by allowing applicant to utilize the full garage as the additional +/- 80 sf over and above the current ADU allowable size of 1100 sf does not increase traffic or persons inhabiting the property. Therefore, granting the variance will not diminish the values of surrounding properties."

5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

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

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

"The existing building size and location, as well as the sufficient parking, are special characteristics of the property. As discussed above, the garage building and proposed use fit the characteristics of the neighborhood, and this reinvestment in the property benefits the community. Applicant had previously spoken to the building department and it was understood according to the language that allowing the mechanicals in this 80 sf space, without heating and with the door only accessing the exterior would be an acceptable way to remove the need to wall off 80 sf for unused space, however, applicant has since been told the Town is no longer reading the language that way. Owing to these special conditions, there is no fair and substantial relationship between the purpose and application of the Zoning Ordinance's ADU size restriction as written."

"The applicant respectfully requests a variance from the maximum gross floor area requirement as applied to an attached mechanical room of approximately 80 sf. The mechanical room houses the building's HVAC system, water heater, and electrical panels, and is accessible only via an exterior door. There is no interior access to this space from any habitable area of the residence. The Town of Milford Zoning Ordinance defines gross floor areas as the floor area within the inside perimeter of the exterior walls, without deduction for interior features. When this definition is applied to the mechanical room, the total calculated gross floor area of the property is 1,180 sf; 80 sf over the allowable maximum of 1,100 sf. Without the mechanical room included, the gross floor area is exactly 1,100 sf. in full compliance with the ordinance."

2. PUBLIC HEARINGS

a. Case # 2026-04

Variance Criteria per New Hampshire RSA 674:33.I:

5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

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

"The applicant asserts that inclusion of this mechanical room in the gross floor area calculations does not reflect the intent of the Zoning Ordinance. The space provides no habitable, usable, or occupiable area. It cannot be accessed from inside the home and serves solely as a utility enclosure necessary for the safe and functional operation of the residence. It is, in practical terms, no different from an exterior utility shed; the only distinction being that it shares a wall with the dwelling. The strict application of the gross floor area definition to this space creates an unnecessary hardship that is not shared by properties that house identical mechanical equipment in detached structures or spaces that may be treated differently under the ordinance. The variance sought is minimal; 80 sf, representing 7.3%of the allowable area and is attributable entirely to a non-habitable utility space."
"The applicant respectfully submits that granting this variance is consistent with the spirit of the Milford Zoning Ordinance, does not confer any special privilege beyond what other property owners effectively enjoy through different structural configurations, and will not be contrary to the public interest."

AND

ii. The proposed use is a reasonable one.
"For the foregoing reasons, which are incorporated herein by reference, the proposed use is reasonable. Moreover, ADU's are permitted by right on the property and uses permitted by right are *per s*e reasonable under New Hampshire law. *See Malachy Glen Assocs., Inc .v. Town of Chichester, 155 N.H.102, 107 (2007).*

Committee Questions and Comments:
A. Kokko to the applicant: Are you planning to live in the home or ADU? Applicant: The home.
A. Kokko to the applicant; do you understand that should you move out of the home, but are still owner of the property, the ADU becomes non-usable? Applicant: Yes.
A. Kokko noted she had discussed this with the OCD Staff to gain understanding of the way the state now looks at this 80 sf Mechanical Room as an exterior closet, cold closet, that would not count as square forage. Moving the Mechanical Room inside the 1100 sf, the 80sf closet could become a room or closet that is not included in the floor area.
R. Elliott to A. Kokko: Basically, it would have to be a room to support the main house, right? A. Kokko: Right.
K. Overby stated he feels this is not how the ordinance reads and explained why.
A. Kokko added RSA 674:77.
Kyle Finnell interjected with further information. The RSA addresses and revises the definition of floor area ratio; this provided guidance to staff when interpreting the Zoning Ordinance and staff deferred back to the definition of gross floor area in the ordinance.
At that time K. Finnell read the Ordinance into the record from the Town of Milford Zoning Ordinance, Article IV, Page 12.

"Floor Area, Gross: The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The gross floor area shall not include shafts with no openings or interior courts. (2016) ."

Kyle Finnell continued by saying there are elements of the definition that are of prime significance when it came to the administrative decision to deny the Building Permit based on the plans submitted to the Board.

2. PUBLIC HEARINGS

a. Case # 2026-04

Committee Questions and Comments:

K. Finnell explained that the first sentence of the clause which was read into the record was deliberated on with himself, the Town Planner, Building Inspector and Zoning Administrator. Based on the plans submitted for the building permit, along with a strict interpretation of this definition of the Zoning Ordinance, it was determined the area for the Mechanical Room could not be deducted from the gross floor area but must be included with the gross floor area even if it were outside since it would serve the ADU.

This point continued to be discussed at length in regards to placement of the utilities.

K. Finnell added that NH RSA 674:77, which pertains to floor area ratio, was referenced for guidance. This is used by many communities in their ordinance for floor area.

M. Thornton asked about the utility room and how the homeowner can meet the criteria.

A. Kokko stated the board will need to decide on the point of the criteria. Then to K. Finnell stated, if there was not a utility room in the closet, it was just a standalone closet with only out side access, what would the Town determine.

K. Finnell stated this was addressed in an Administrative Letter. If the utilities serving the ADU were outside the closet and the closet has no discernable function with only outside access, the proposed ADU would be taken into consideration.

K. Overby to clarify then the fact that the utilities are in the closet means that area has to be included in the square footage.

K. Finnell: That is what the Town determined in the joint administrative session.

R. Elliott: Once the determination was made about the Mechanical Room square footage, were other design choices looked at to keep the square footage at or under 1100 square feet? Applicant Katelyn Brown stated this was discussed, but the garage is in the front of the building and it would be extremely costly to push utilities to the back.

A. Kokko noted the Town voted to increase the ADU allowance to 1100 sf which was an increase of 350 sf over the previous maximum and 150 sf over the State's recommendation. Utilities could be moved into the unit thereby keeping the ADU at 1100 sf which is an easy way to conform with what was voted on for the maximum ADU size of 1100 sf.

M. Thornton offered his advice and opinions on how to keep it at 1100 sf. The outside closet could be used for storage.

Discussions continued about various options for utility placement with the applicants voicing their concerns and opinions.

A. Kokko stated she understood the applicants do not want a garage. However, A. Kokko feels the utilities can be moved into the area that is proposed to be an office and then the 1100 sf is met along with a separate room that is not considered servicing the ADU. To the applicant, she pointed out with this idea the criteria is met and there would an 1100 sf ADU that incorporates the mechanicals; this would be in compliance with the ordinance and there would be no change to the size of the proposed ADU.

Kyle Finnell interjected by referring to the Zoning determination that was made by staff.

The determination was written in a memorandum to the Applicant from the Office of Community Development dated April 30, 2026, RE: 47 North Street – Application Review.

The memorandum addresses: Zoning Determination – ADU Gross Floor Area, Prior Correspondence, Application Status – Incomplete, and Next Steps.

The memorandum was signed by

Scott Tenney, Building Inspector/Code Enforcement Officer and Kyle Finnell, Director of Community Development/Zoning Administrator.

At that time, the memorandum that was included in the packet distributed to the Zoning Board was read into the record by Kyle Finnell.

2. PUBLIC HEARINGS

a. Case # 2026-04

Chair asked if there were any further questions from the Board and there were none. The public portion of the meeting was opened but hearing none and seeing none this was closed.

Deliberations:

Variance Criteria per New Hampshire RSA 674:33.I:

1. Granting the variance would not be contrary to the public interest because:

R. Elliott: Does not see it being contrary to the public interest regardless of how the build is done since it is basically going to stay the same from the public's point view.
M. Thornton: Agrees; it is what he has been saying all along.
K. Overby: Agrees; appearance is going to be the same and it will not be getting closer to the abutters.
J. Austin: Agrees; sees no changes on the outside.
A. Kokko: This will not be contrary given that the public's interest appears to be leaning towards ADU's.

2. The spirit of the Ordinance is observed.

M. Thornton: It would best be observed if the new limit of 1100 sf could be attained.
J. Austin: Agrees; it could conform to what the Board is looking for.
K. Overby: The spirit of the ordinance is not being observed because the gross floor area is over 1100 sf and if the utilities were withing the 100 sf there would be no need for a variance.
R. Elliott: It is following the spirit of the ordinance. The building is staying the same and it is not being added to in order to get 1180 sf, so generally speaking, it is what the intent is, or at least trying to with the building that is there.
M. Thornton: This raises the question of which exterior is being addressed. In this case, he feels that the exterior of the garage can be used by putting on some type of door and framing it in. This could be used for whatever purpose and then put the 80 sf for utilities where it is most convenient.
A. Kokko: Does not believe that the spirit of the ordinance can be observed in this manner given the fact that the ordinance was just changed to a maximum of 1100 sf.

3. Granting the variance would do substantial justice because:

K. Overby: It would do substantial justice because of the fact that the plans would not have to change. The applicant could build out and not have to move the utilities to a different part of the structure.
M. Thornton: Does not understand why the utilities have to be moved. Feels the 80 sf could just be moved which is much easier during the design phase than moving the utilities later on.
R. Elliott: Not sure this would do substantial justice for the applicant. The current footprint of the garage should allow enough space for the ADU and utilities in order to stay within the required 1100 sf or less. There needs to be a design change. Believes substantial justice would not be done.
J. Austin: Agrees.
A. Kokko: Agrees and feels modifications can be made to the plans.

4. The values of surrounding properties would not be diminished.

M. Thornton: There will be no change to the exterior and neighbors would not know the interior changes. Therefore, with no exterior changes there is no change that would increase the neighbor's value. During design, there is time to make the 80 square feet useful for the exterior and still meet the 1100 sf designation.
R. Elliott: Does not see the property values going down in the area.
J. Austin: Agrees; but it will bring additional value to the ADU property.
K. Overby: This will not decrease values in the area but will bring value to the property being updated.
A. Kokko: There will be no negative effect; it will not decrease property values but may actually change the ADU property values.

2. PUBLIC HEARINGS

a. Case # 2026-04

Deliberations:

Variance Criteria per New Hampshire RSA 674:33.I:

5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

R. Elliott: Denying this would not cause a hardship since there is a reasonable amount of space so the garage could be used as an ADU and a garage, or just an ADU or some type of split to remain at or below the maximum of 1100 sf.
M. Thornton: Noted that hardship usually goes to the land itself in that it creates a problem for developing a structure.
K. Overby: There is no hardship.
J. Austin: Agrees.
A. Kokko: Agrees for the same reasons that have been stated. Also believes there is no hardship because modifications can be made in the planning stages that will not be costly or have a negative impact on the property.

Chair noted that at this point the meeting would move to voting, but wanted to give the applicant the option to withdraw the application, move forward with the voting or make amendments to the application.
Applicant stated they would withdraw the application.

Chair asked for a motion to **withdraw Case #2026-04**. Mike Thornton made a motion to withdraw Case #2026-04 and it was seconded by James Austin. A vote was taken and all were in favor.

3. OTHER BUSINESS

No further business.

4. MINUTES

05/21/2026
Chair noted a change to the stated next meeting date of June 4 and not June 2.
Chair asked for a motion to approve the minutes of May 21, 2026 as amended.
R. Elliott made a motion to approve the minutes from May 21, 2026 and it was seconded by M. Thornton.
A vote was taken and all were in favor. Minutes from May 21, 2026 were approved.

5. NEXT MEETING

- Kyle Finnell noted there are no cases for the next meeting dates of June 18th or July 2nd.
- Mike Thornton brought up the idea of having a work session.
- Chair stated she was planning on cancelling the meeting of July 2nd in view of the holiday.
- Mike Thornton noted the track from the Planning Board is available to view. K. Finnell stated that is available through the Office of Community Development and he will distribute it to the Board if they are interested in that.
- Chair stated she agrees there should be a work session and would like the chance to first get together with Kyle Finnell to discuss what to cover in a work session. Then added, in view of the summer it would be a good opportunity to take advantage of taking off the next 2 meetings on June 18th and
- July 2nd and schedule the next meeting for July 16th.
- K. Finnell informed the Board that the application submittal process will be put up online for the Zoning and Planning Boards.

6. ADJOURNMENT

Chair asked for a motion to adjourn. M. Thornton made a motion to adjourn and it was seconded by K. Overby. A vote was taken and all were in favor. Meeting adjourned.at 7:15 p.m.

Motion to Approve: _____

Seconded: _____

Signed: _____

_____

_____

Date: _____