



ZONING BOARD OF APPEALS
TOWN OF CONCORD
MEETING MINUTES
JANUARY 9, 2025

Pursuant to notice duly filed with the Town Clerk, a hybrid public meeting of the Board of Appeals was held on Thursday, January 9, 2025 at 7:00 p.m. in person at 141 Keyes Road, First Floor Meeting Room and using the Zoom meeting platform.

Meeting ID: 852 6758 5197 Meeting Password: 847758

PRESENT:

Members:

Theo Kindermans, Chair

Ravi Faiia, Vice Chair

Elizabeth Dwyer Leonard, Member

Thomas Swaim, Associate Member

Elizabeth Hughes, Town Planner

Paul Creedon, Building Commissioner

Kim Johnson, Admin Assistant

Chair Kindermans called the meeting to order at 7:00 p.m.

Voting Members: Theo Kindermans, Ravi Faiia, Elizabeth Dwyer Leonard

Public Hearings:

Lisa Krassner (Applicant), on behalf of the Concord Museum (Owner) for a Sign Variance under Sign Bylaw Sections 3.c.2 and 7 to allow a third sign at 53 Cambridge Turnpike (Parcel # 0109)

Chair Kindermans opened the public hearing and reviewed the application

Lisa Krassner presented the application and explained that the museum already has two signs, but a third one is needed at this strategic, highly visible location to enhance visibility and visitor experience, especially with the upcoming 250th anniversary of the American Revolution. The proposed sign, supported by a state tourism grant and approved by the Historic Districts Commission, would be placed near a stone wall and is intended to serve as a wayfinding tool. The sign would be 6 feet wide and 27 inches high, made from a durable material designed to resemble wood. It would have a tasteful design matching other historic signage in town. The board discussed the location, legal considerations, and dimensions of the sign, noting that although it would be the third sign and thus require a variance, the unique layout and residential appearance of the museum warranted special consideration. and the board members generally agreed that the situation was unique and justified granting the variance.

Chair Kindermans opened the hearing for public comment and there was none.

Mr. Faiia moved to approve the application of Lisa Krassner (Applicant), on behalf of the Concord Museum (Owner) for a Sign Variance under Sign Bylaw Sections 3.c.2 and 7 to allow a third sign at 53 Cambridge Turnpike (Parcel # 0109). Ms. Dwyer Leonard seconded the motion and all **VOTED** in favor.

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Brooks Ware (Applicant/Owner), for a Special Permit under Zoning Bylaw Sections 4.2.2.1, 7.1.5 and 11.6 to demolish a 1, 260 sq. ft. detached barn and to construct a new 3,361 sq. ft. addition to allow the conversion of the single-family dwelling to a two-family dwelling and extension of a non-conforming side yard setback of 12.9 ft. at 104 Laws Brook Road (Parcel # 2100)

Chair Kindermans opened the public hearing and reviewed the application.

At the meeting, Brooks Ware presented a request for a special permit under various zoning bylaws to demolish a 1,260-square-foot detached barn and build a 3,361-square-foot addition. The goal is to convert the existing single-family home at 104 Laws Brook Road into a two-family dwelling while extending a nonconforming side yard setback of 12.9 feet. Mr. Ware explained that the property is on a double-sized lot of over 21,000 square feet in a residential zone and emphasized the importance of preserving the historic structure of the existing house, which is listed on the town's inventory of historic buildings. The project includes restoring the original front porch and constructing a rear addition with a 17-foot-9-inch shared wall between the two units, designed to appear as separate structures.

Both units will have similar layouts, with four bedrooms and three and a half bathrooms, and will be relatively close in size—within about 200 square feet of each other. Mr. Ware addressed the design decisions, including the placement of garages and driveways, explaining that practical considerations like vehicle turning space influenced the layout.

During the public comment portion, a neighbor, Liz Mauer of 92 Laws Brook Road, raised concerns about the proximity of the proposed new driveway to hers. She noted that the driveways are very close together at the curb, which might lead to confusion for visitors and deliveries. Mr. Ware acknowledged the concern and noted efforts to preserve existing trees and landscaping. The board agreed the issue warranted further on-site review and possible conditions to improve driveway differentiation, such as spacing or visual separation.

Ms. Mauer also expressed concern about the fate of mature trees on a property slated for development, particularly those located near the proposed detached garage and along a shared property line. They emphasized the importance of preserving the healthy, large trees and noted that some of these trees are protected under local bylaws due to their size. Mr. Ware assured Ms. Mauer that trees on the shared property line would remain and noted that only marked trees—those deemed dead or unattractive, would be removed. They also offered to walk the property line with the neighbor to confirm which trees would stay.

Further discussion touched on a proposed garage that encroaches into the setback. Ms. Mauer asked why a structure was allowed to violate the setback rule, emphasizing fairness in zoning enforcement. It was clarified that the plan does not require variance but instead a special permit under a zoning provision allowing a minor encroachment if offset elsewhere on the property.

The board agreed to condition the permit approval on a stormwater management solution to address runoff from impervious surfaces, suggesting that previous applications had included similar conditions. Mr. Ware confirmed familiarity with stormwater solutions and stated their intent to implement an effective system.

The meeting concluded with a motion to approve the special permit for the conversion of a single-family home into a two-family dwelling, contingent upon stormwater management updates to the site plan and coordination with neighbors on tree identification and driveway concerns.

Ms. Dwyer Leonard moved to approve the application of Brooks Ware (Applicant/Owner), for a Special Permit under Zoning Bylaw Sections 4.2.2.1, 7.1.5 and 11.6 to demolish a 1, 260 sq. ft.

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detached barn and to construct a new 3,361 sq. ft. addition to allow the conversion of the single-family dwelling to a two-family dwelling and extension of a non-conforming side yard setback of 12.9 ft. at 104 Laws Brook Road (Parcel # 2100) Mr. Faiia seconded the motion and all **VOTED** in favor.

Andrew Bonnes and Martina Ladd, (Applicant/Owner), for a Special Permit under Zoning Bylaw Sections 7.1.5 and 11.6 for a 1,167 sq. ft. addition that extends the nonconforming side yard setback from 13.5 ft. to 12.7 ft. at 131 Hubbard Street (Parcel # 0159)

Chair Kindermans opened the public hearing and reviewed the application.

Elise Stone, the architect, explained that the house, originally built in 1890, is mostly conforming except for the left side setback. The addition impacts only the second floor, which will be set back at 14.8 feet—still under the 15-foot requirement—requiring relief under zoning bylaws. No objections were received from the public or neighbors, including the most affected neighbor, who was supportive. Clarifications were made regarding the minor nature of the request, emphasizing that it was a small deviation caused by an initial surveying error. The board acknowledged that redesigning the house would be unreasonable and that the applicants had acted in good faith.

Chair Kindermans opened the hearing for public comment and there were none.

Mr. Faiia moved to approve the application of Andrew Bonnes and Martina Ladd, (Applicant/Owner), for a Special Permit under Zoning Bylaw Sections 7.1.5 and 11.6 for a 1,167 sq. ft. addition that extends the nonconforming side yard setback from 13.5 ft. to 12.7 ft. at 131 Hubbard Street (Parcel # 0159). Ms. Dwyer Leonard seconded the motion and all **VOTED** in favor.

North River Builders (Applicant), on behalf of Christopher Brand (Owner) for a Special Permit under Zoning Bylaw Sections 7.1.5, and 11.6 to extend a nonconforming side yard setback to allow the construction of a 232 sq. ft. single-story addition on the west elevation located 9.9 ft. from the side property line and a Variance under Section 11.7 to allow the construction of a 146 sq. ft two-story addition on the east elevation to be located 10 ft. from the side property line at 39 Damon Street (Parcel # 2380)

Chair Kindermans opened the public hearing and reviewed the application.

North River Builders presented the proposal included adding a 232-square-foot single-story extension on the west side and a 146-square-foot two-story extension on the east side, both affecting the required side yard setbacks.

The property is nonconforming, with a small lot size and narrow frontage. The house already encroaches into side and front yard setbacks. The proposed additions would further encroach, and because the additions exceed 50% of the existing gross floor area, a special permit is needed. However, the variance is more problematic due to the stricter legal requirements, such as proving hardship related to soil conditions, shape, or topography.

The board expressed concern that the application did not demonstrate the necessary hardship to justify the variance. They noted that the lot is small but not uniquely shaped or narrower than others in the area, and that setting a precedent by approving such a variance without a clear hardship could lead to broader zoning issues. Mr. Brand the homeowner responded, expressing frustration and highlighting that the intent was to accommodate a growing family by adding a much-needed second bathroom. He emphasized their efforts to stay within neighborhood norms and the financial and practical challenges of other renovation options. Despite this, the board remained cautious, reiterating that personal circumstances and financial strain do not meet the legal

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definition of hardship required to grant a variance. They suggested the possibility of withdrawing the Variance request without prejudice to allow for potential resubmission under different terms.

The board acknowledged their historical willingness to work with applicants but emphasized the legal difficulty in granting variances due to strict requirements under zoning laws. The applicant argued that their request to add a second bathroom constituted a basic living need and that complying without a variance would require sacrificing a bedroom, thereby reducing home value and constituting financial hardship. However, board members explained that general financial impact or home improvement desires do not meet the legal definition of a hardship necessary for a variance. They elaborated that a qualifying hardship must arise from unique land conditions like soil, shape, or topography and not from common homeowner goals.

They acknowledged the modesty and practicality of the proposed addition but reiterated that without a distinct qualifying hardship, they are not authorized to grant a variance. The discussion then shifted to a special permit for a west-side addition, which is treated differently and is generally easier to obtain if requirements are met. The board confirmed the addition increases a pre-existing nonconformity but is unlikely to be substantially more detrimental to the neighborhood. Since no objections were received from neighbors and the applicant had engaged them beforehand, the board found no reason to deny the special permit.

Ultimately, the applicant decided to withdraw the variance request without prejudice, allowing for a future submission if needed, and moved forward with obtaining the special permit for the west-side project.

Chair Kindermans opened the hearing for public comment and there were none.

Ms. Dwyer Leonard moved to accept the withdrawal without prejudice for the Variance of North River Builders (Applicant), on behalf of Christopher Brand (Owner) for a Special Permit under Zoning Bylaw Sections 7.1.5, and 11.6 to extend a nonconforming side yard setback to allow the construction of a 232 sq. ft. single-story addition on the west elevation located 9.9 ft. from the side property line and a Variance under Section 11.7 to allow the construction of a 146 sq. ft two-story addition on the east elevation to be located 10 ft. from the side property line at 39 Damon Street (Parcel # 2380) Mr. Faiia seconded the motion and all **VOTED** in favor.

Taurus Investment Holdings & CD 211 Property LLC (Applicant/Owner), for a Special Permit and Site Plan Review under Zoning Bylaw Sections 7.2 (Floodplain Cons. Dist.), 7.7 (Parking Relief & Joint Parking), 11.6 (Special Permit) and 11.8 (Site Plan Review) at 300-310 Baker Ave (Parcel # 3794-1)

Chair Kindermans opened the public hearing and reviewed the application.

Kevin Hurley, a land planner representing the applicants, introduced the project for a Special Permit and Site Plan Review for 300-310 Baker Avenue. He was accompanied by civil engineer Dan Feeney. Mr. Hurley outlined that they had also filed with the Natural Resources Commission, which had already approved an order of conditions, and noted the Planning Board's recommendation for approval.

The property spans 65 acres zoned as industrial park. The plan is to divide it into two lots: Lot A, with 55 acres and a 414,000 square foot office building, and Lot B, with 10 acres for a previously approved 201-unit development. The proposal includes demolishing a 60-by-94-foot, two-story section of the existing office building, which will remove 11,400 square feet. In its place, 54 new parking spaces will be constructed. Other site changes include narrowing a wide, undefined intersection to improve safety, relocating two handicapped parking spaces to the new building entrance, and upgrading one of seven existing EV charging stations to be handicapped accessible.

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Further accessibility enhancements involve creating two new handicap spaces at the rear of the building near an existing ramp, as that area currently lacks such parking. Regarding parking relief, a study by Vanasse & Associates showed 1,591 parking spaces across the Concord Meadows Corporate Center, with over 1,000 vacant spaces at the time of study. Of the 1,361 spaces on the Taurus-owned portion, 802 were vacant. A follow-up count confirmed even more vacancy, supporting their request for parking relief.

Post-demolition, the required parking for the office building drops from 1,505 to 1,486 spaces. With the property division, 293 spaces will go to Lot B, and additional reconfiguration will lead to some further losses. However, even with these changes, Lot A will retain 1,108 parking spaces for the office building's use, supplemented by spaces on the hotel property.

Taurus has exclusive rights to use 83 additional parking spaces on hotel property based on a prior agreement approved by the town during the hotel's development. Additionally, Taurus can jointly use 92 other parking spaces on the hotel property, bringing the total number of usable parking spaces across Lot A and the hotel property to nearly 1,300. A joint parking arrangement is proposed between Lot A and Lot B, where 21 spaces on Lot B, owned by the residential development, can be used by the office building during business hours, and in return, residents will have access to 40 spaces from the office building's allocation on Lot A.

With these adjustments, the office building will have 1,304 spaces, and Taurus is requesting relief for 182 spaces, which would raise the total to 1,486, aligning with what the building inspector recommends. After accounting for use of Lot B, transition needs, and 54 newly built spaces, Lot A would still retain 360 vacant spaces. Including the hotel's available parking, there would be over 500 vacant spaces, making the relief request seem reasonable.

Approving the plan would add 54 spaces in a high-use area and optimize parking availability for residents during off-hours. It also helps reduce building massing by eliminating over 11,000 square feet of planned structure and scrapping a parking garage originally designed to attract a now-departed tenant, Welch's. The garage would have only netted 235 additional spaces after accounting for lost surface parking and would have delayed residential construction. Without it, construction can start 12–18 months earlier, crucial for the town's Subsidized Housing Inventory (SHI) deadline of April 14, 2025.

The town meets its SHI requirements now, but only barely, and needs an occupancy permit within 18 months of issuing a building permit for the project to count. A foundation permit isn't sufficient under 40B regulations. Test pits conducted after mapping existing utilities revealed the groundwater was lower than expected, allowing the parking lot elevation to be lowered and significantly reducing the fill required in the floodplain—from 200 to just 1 cubic yard. Thirteen cubic yards of compensation fill is included to provide a buffer. Stormwater will be managed with infiltration systems discharging into existing infrastructure, confirmed effective due to sandy soils.

Peer review by GPI validated the revised stormwater and wetland plans, suggesting only minor permit conditions. The Planning Board's recommendations, including GPI's notes, have been integrated. The board appreciates the applicant's cooperation and responsiveness, especially in bringing a joint parking proposal as previously requested. The project can proceed independently of the adjacent Denova project, although Welch's vacating in July 2025 may influence timing.

Chair Kindermans opened the hearing for public comment and there were none.

Mr. Faiia moved to approve the application of Taurus Investment Holdings & CD 211 Property LLC (Applicant/Owner), for a Special Permit and Site Plan Review under Zoning Bylaw Sections 7.2 (Floodplain Cons. Dist.), 7.7 (Parking Relief & Joint Parking), 11.6 (Special Permit) and 11.8

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(Site Plan Review) at 300-310 Baker Ave (Parcel # 3794-1) Ms. Dwyer Leonard seconded the motion and all **VOTED** in favor.

Zur Attias (Applicant/Owner), for a Special Permit and Site Plan Review under Zoning Bylaw Sections 6.2.11, 7.1.5 and 11.6 for the demolition of an existing 858 sq. ft. dwelling and the construction of a new 5,860 sq. ft. dwelling that increases the gross floor area by more than 50% and a height waiver to allow a height of 37.7 ft. which exceeds the 35-foot height limit at 241 Shadyside Ave (Parcel # 4259)

Chair Kindermans opened the public hearing and reviewed the application.

A site visit was conducted earlier that day, and new plans including septic and stormwater details were submitted. The applicant emphasized that much of the new structure will be behind the existing house and consistent in width with neighboring properties.

Attention was drawn to the request for height relief under zoning section 6.2.11, with historical considerations playing a major role. Jack Trost, Vice President of the Carlisle Historical Society, provided context about the historical value of the barn to be reconstructed, which is over a century old and listed as historically significant by the Massachusetts State Historical Commission. The Society supports a slight reduction in the barn's height to 37 feet but argues that going lower would compromise its historical integrity, particularly the roof's original slope.

The homeowner expressed a strong desire to preserve and reuse the historic barn, noting that an entirely different home design had been scrapped to pursue this vision. The intention was to maintain the barn's original design as closely as possible, even though site constraints prevent a full recreation. The applicant explained that the decision to save the structure involved significant effort and cost.

Ultimately, the discussion reflected a tension between regulatory constraints and efforts to honor historical preservation, with some board members acknowledging their struggle in deciding what constitutes a reasonable compromise.

The discussion focused on the justification for a height waiver request related to the construction of a new dwelling on a lot with varying topography. It was clarified that style alone is not grounds for a height waiver, but the bylaw allows for relief when a building appears over the height limit due to measurement from a low point on a sloped lot. The proposed building wouldn't exceed 35 feet if measured from the front but does when measured from the rear left corner, as required.

The group analyzed elevation points, confirming that the barn section of the house—though technically exceeding the height limit—appears compliant from the street view. They discussed the importance of balancing zoning bylaws with the preservation of the historic barn's character. There was a consensus that from the street, the height wouldn't seem excessive, especially considering the lot sits lower than the road.

The conversation also addressed potential impacts on neighborhood character and views. The members noted that while the barn is high, the adjoining wings are only one story, which mitigates the overall visual impact. The board felt reassured after a site visit that the scale and massing of the structure were consistent with other homes on the street.

Additionally, there was agreement that a landscape plan should be required to soften the building's frontage and help it blend into the neighborhood context. After weighing the considerations of neighborhood character, topography, and the visual impact of the height from the street, the board approved the special permit and site plan review. This allowed the demolition of the existing

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dwelling and the construction of the new house with the height waiver, conditioned on standard terms and the development of an appropriate landscape plan.

Chair Kindermans opened the hearing for public comment. An abutter Mark Murphy 236 Shadyside Ave. raised a concern that insisting on the historic barn's original dimensions is self-imposed and doesn't meet zoning relief criteria. The applicant and some board members then debated the meaning of "reasonable" and how to balance preserving historical character with zoning compliance.

Ultimately, the discussion reflected a tension between regulatory constraints and efforts to honor historical preservation, with some board members acknowledging their struggle in deciding what constitutes a reasonable compromise.

Ms. Dwyer Leonard moved to approve the application of Zur Attias (Applicant/Owner), for a Special Permit and Site Plan Review under Zoning Bylaw Sections 6.2.11, 7.1.5 and 11.6 for the demolition of an existing 858 sq. ft. dwelling and the construction of a new 5,860 sq. ft. dwelling that increases the gross floor area by more than 50% and a height waiver to allow a height of 37.7 ft. which exceeds the 35-foot height limit at 241 Shadyside Ave (Parcel # 4259) Mr. Faiia seconded the motion and all **VOTED** in favor.

Administrative Business

Approval of Minutes for March 19, 2024 and December 3, 2024 Site Visits, April 4, 2024, May 9, 2024, July 25, 2024 and August 8, 2024 meetings

Mr. Faiia moved to accept the minutes for the March 19, 2024 and December 3, 2024 Site Visits and April 4, 2024, May 9, 2024, July 25, 2024 and August 8, 2024 meetings as submitted/amended. Ms. Dwyer Leonard seconded the motion, and all VOTED in favor.

There being no further business, the meeting was adjourned at 9:13 p.m.

Meeting Minutes Approved On: May 8, 2025