

Town of Exeter
Zoning Board of Adjustment
July 15, 2025, 7 PM
Town Offices Nowak Room
Draft Minutes

I. **Preliminaries**

Members Present: Chair Robert Prior, Vice-Chair Laura Davies, Clerk Esther Olson-Murphy, Kevin Baum, John Dal Santo - Alternate, and Mark Lemos - Alternate
Town Code Enforcement Officer Doug Eastman was also present.

Members Absent: Martha Pennell - Alternate, Laura Montagno - Alternate

Call to Order: Chair Robert Prior called the meeting to order at 7 PM.

I. **New Business**

- A. The application of Dr. Hannah Wells for a variance from Article 4, Section 4.4, Schedule III for relief from the side yard setback for the proposed construction of a 15' x 20' addition to the existing structure (Veterinary Wellness Center) located at 2 Continental Drive. The subject property is located in the C-3, Epping Road Highway Commercial zoning district and is identified as Tax Map Parcel #47-2-1. ZBA Case #25-5.

Mr. Prior said regarding alternates, Mr. Dal Santo will vote and Mr. Lemos will not vote on this application.

The applicant, Dr. Hannah Wells, said this is an integrative veterinary practice which includes acupuncture, herbal medicine, and rehabilitation. The application is for relief from the side yard setback. She purchased this building in 2021 and put a room for rehab on the side of the building. She would like to add an underwater treadmill to the rehab offering. The most suitable place for that is on that side of the building because that's where the main drain line and cleanout drains are.

Mr. Prior asked if the building is on town water and sewer, and Dr. Wells said yes.

Mr. Prior asked if an alternate location, such as behind the building, would be unsuitable. Dr. Wells said at the back of the building is a drainage ditch she assumes cannot be altered. The other side of the building is parking.

Mr. Baum asked her to describe the existing water detention area. Dr. Wells said there's drainage, as well as some very large boulders. Excavation would be fairly challenging back there. She was trying to minimize disruption to existing site plans. Mr. Prior said there's a fairly significant swale less than 10 feet from the back wall of the property.

Mr. Prior asked if there are any problems with standing water on the property. Dr. Wells said not in the area she's looking to build on. There is a slope toward the drainage ditch. Ms. Olson-Murphy said there's another swale on the

45 other side of the parking lot, so they couldn't move the parking lot. Dr. Wells said
46 it's also designated as wetlands.

47 Ms. Davies asked if the exterior materials will be the same as the existing
48 building. Dr. Wells said yes, it will be vinyl siding that will match the building.

49 Mr. Prior opened the discussion for public comment, but there was no one
50 present to comment.

51 Mr. Prior said the Board received an email from Marcia Markey at 162
52 Epping Road, who was unable to attend the meeting. She wrote that she
53 opposes the setback variance because it will impact the sale of her property to a
54 buyer considering adding to or replacing the building. The vegetation between
55 the properties will be affected. The value of her property will be decreased
56 because it will restrict land use of her property. There will be unnecessary
57 hardship because it will restrict the potential for future sales. The variance will be
58 a financial benefit for the applicant at a very large cost to Ms. Markey. Mr. Prior
59 pointed out that this is not the abutting property on the side affected by this
60 variance; the abutter's property is behind the building.

61 Dr. Wells said she doesn't think Ms. Markey's concerns are accurate. The
62 proposed addition is not close to her property line. If we were to do the addition in
63 the back and extend into that setback, then she may have a comment, but the
64 addition is proposed on the side that abuts Tire Warehouse. The idea that it
65 would infringe on her ability to sell her building is not valid.

66 Mr. Baum said Ms. Markey talks about the vegetation; what type of buffer
67 will be maintained between the two properties? Dr. Wells said aesthetically and
68 financially, it makes sense to leave the vegetation which is there. We do not have
69 any intention to take out the trees or vegetation. We may have to limb a tree or
70 two at the top. Mr. Baum asked if they would be open to a condition that they
71 would maintain the existing buffer. Dr. Wells said yes, we don't need to cut any
72 vegetation in order to access the drains, and her preference is to maintain the
73 natural vegetated aesthetic between her property and Tire Warehouse.

74 Mr. Prior closed public comment and the Board entered deliberations.

75 Ms. Davies said regarding the concerns of the abutter, she agrees that
76 the location of their property is not near the proposed addition. She doesn't see
77 how this could affect a proposed buyer of the other property looking to expand. It
78 actually sets a precedent for relief in the neighborhood. She doesn't understand
79 the concern about resale limitations or value. It's not close enough and it's not a
80 detrimental use. Mr. Prior said this does not establish a restriction on the use of
81 the other property. Ms. Davies said it will not cost the abutter anything if this is
82 approved.

83 Ms. Olson-Murphy went through the variance criteria. 1) The variance will
84 not be contrary to the public interest and 2) The spirit of the ordinance will be
85 observed; yes, the applicant wants to put in a new facility for her veterinary
86 practice and there really isn't another spot to put it. It's not overly large for the
87 area. It's not contrary to the public interest. Mr. Prior said the spirit of the
88 ordinance in this area is to maintain an orderly separation between buildings, and

89 this does not have a dramatic impact on that. Ms. Olson-Murphy continued with
90 the criteria: 3) Substantial justice is done; yes, this allows them to expand their
91 business with little to no impact on surrounding properties. 4) The value of
92 surrounding properties will not be diminished; yes, nobody came in to say that is
93 true. Mr. Prior said the concerns of Ms. Markey's letter have already been
94 addressed. Ms. Olson-Murphy continued: 5) Literal enforcement of zoning
95 ordinance will result in an unnecessary hardship; yes, the applicant showed that
96 there is no alternative location in which she can expand her business.

97 Mr. Baum said he will ask for a condition that the existing tree buffer
98 along the Tire Warehouse side will be maintained. Ms. Olson-Murphy said she
99 wouldn't want to prevent the construction because they're not able to touch a
100 tree. If you cut down one, you're not going to notice it. Ms. Davies said it was
101 more about maintaining the buffer overall.

102 Mr. Baum made a motion to approve the application of Dr. Hannah Wells
103 for a variance from Article 4, Section 4.4, Schedule III for relief from the side yard
104 setback for the proposed construction of a 15' x 20' addition to the existing
105 structure as shown on the plan submitted, with the condition that the vegetated
106 buffer on the right side property line be maintained. Ms. Olson-Murphy seconded.
107 Mr. Prior, Ms. Davies, Ms. Olson-Murphy, Mr. Baum, and Mr. Dal Santo voted
108 aye, and the motion passed 5-0.

109 II. **Other Business**

110 A. Approval of Minutes - May 20, 2025

111 Corrections: Ms. Davies said in line 257, it says a building permit cannot
112 "issue"; it should read "be issued." In line 270, it reads "he takes umbrage with
113 trying to distinguish Accurate." Ms. Olson-Murphy said Accurate was a case. Mr.
114 Baum said he thinks that statement was intentional. Ms. Davies did not pursue
115 this correction. She said in line 280, it reads "he [Mr. Prior] never imagined a
116 project of this scale in the R-1 zoning district without a special exception", but she
117 thinks it could be allowed. Mr. Baum said it would be better for Mr. Prior not to
118 comment or vote on these minutes, and Ms. Davies agreed. Mr. Baum said he
119 thinks Mr. Prior's intent was to say "he never imagined a project of this scale in
120 the R-1 zoning district would be requested and acted upon by the ZBA without a
121 special exception."
122

123 Mr. Prior asked for the Board members to vote on the minutes as amended. Ms.
124 Davies, Ms. Olson-Murphy, Mr. Lemos, and Mr. Baum voted aye, and the
125 minutes were approved 4-0.

126 B. Pickpocket Abutter Group – ZBA Case #25-2 Request for Rehearing on the 127 Appeal of Planning Board Decision made on February 13, 2025 re: RiverWoods 128 New Supportive Living Health Center 129 130 131

132 Mr. Prior recused himself from this application. Ms. Davies assumed the
133 Chairship of the meeting at this time.

134 Ms. Davies said this request was submitted by the Pickpocket Abutter
135 Group's counsel. The application lays out some history and outlines some
136 arguments. Mr. Baum said we should outline the scope of review, which is
137 whether there is new evidence that wasn't available at the time of the decision, or
138 if there were errors of law. Ms. Davies said they didn't indicate any new
139 information in their argument; this is based on the interpretation of the law. The
140 applicant says there was no vote on Mr. Eastman's position and no one clarified
141 his position, even though the members of the Planning Board were confused on
142 what his position was. This created independent grounds for appeal under RSA
143 76-5. The main argument is that the ZBA misconstrued the appeal of the
144 Planning Board decision as an appeal of Mr. Eastman's decision. The appeal
145 was on the basis that there was no Planning Board vote to adopt Mr. Eastman's
146 decision and there was no clear resolution, but the Planning Board voted to
147 approve the application anyway. Mr. Baum said there was no express vote of the
148 Planning Board to adopt or not adopt Doug Eastman's letter, but there was
149 clearly a discussion, and the record of the ZBA meeting reflects the references to
150 the Planning Board minutes, where there was a clear determination that Mr.
151 Eastman's letter had been considered and the decision was made relying on that
152 letter. The applicants don't agree with that position, but the Board didn't
153 misunderstand or miss it. Ms. Davies said we did address it in our deliberations
154 and voted accordingly.

155 Ms. Davies said their second argument is that even if the appeal was a de
156 facto appeal of Mr. Eastman's letter, Mr. Eastman did not make an administrative
157 decision, because the letter did not apply the terms of the zoning ordinance
158 regarding special exceptions. She sympathizes with that part of the argument,
159 since there was no reasoning in the letter on the necessary need to completely
160 bypass the special exception process. It said it was permitted by right in a no-
161 notice, private letter. Mr. Baum said he doesn't agree with the argument that
162 because there's no explicit step-by-step walkthrough of the zoning ordinance in
163 the letter, that Mr. Eastman did not consider the ordinance when he issued that
164 letter that said the use was permitted by right. The decision was based on the
165 zoning ordinance, whether you agree that it was a correct decision or not. Ms.
166 Olson-Murphy said Mr. Eastman considered those things, they're just not
167 outlined in the letter. What he did is allowed. Ms. Davies said she thinks it
168 bypassed the process of the zoning ordinance. Mr. Baum asked if her position is
169 that it was improperly interpreted because it ignored the terms of the zoning
170 ordinance. Ms. Davies said yes. Mr. Baum said he thinks it's a different issue
171 whether it was an improper interpretation of the ordinance or did not consider the
172 ordinance. Ms. Davies said she did not agree.

173 Mr. Lemos asked what the Board is voting on. Ms. Davies said we are
174 voting on whether the Pickpocket Abutter Group gets to have a rehearing. Ms.

Olson-Murphy said the rehearing appeal must be either based on new information or an error of law.

Ms. Davies called for a vote on approving the request for rehearing. Mr. Dal Santo indicated that he would like to abstain. Ms. Davies said he should have stated that at the beginning of the discussion so that the applicant could have deferred the request until there were five voting members. Mr. Baum said there are no other Board members. Mr. Dal Santo indicated that he would vote. Ms. Davies and Mr. Dal Santo voted aye, and Mr. Baum, Ms. Olson-Murphy, and Mr. Lemos voted nay. The motion failed 3-2 and the application was denied.

C. Approval of Minutes - June 17, 2025

Mr. Prior rejoined the Board at this time, but Ms. Davies continued as Chair.

Corrections: Ms. Olson-Murphy said line 31, it says the applicant's representative did not identify himself. Ms. Davies said it was Derek Durban. Ms. Olson-Murphy said on line 50, why did only three people vote? Martha and Laura should have voted as well. Ms. Davies said there were five votes: Ms. Davies, Ms. Montagno, Ms. Olson-Murphy, Mr. Lemos, and Ms. Pennell.

Ms. Olson-Murphy made a motion to approve the minutes of June 17, 2025 as amended. Mr. Lemos seconded. Ms. Davies, Ms. Olson-Murphy, Mr. Prior, and Mr. Dal Santo voted aye; Mr. Baum abstained. The motion passed 4-0.

III. Adjournment

Mr. Baum moved to adjourn. Ms. Olson-Murphy seconded. All were in favor and the meeting was adjourned at 7:50 PM.

Respectfully Submitted,
Joanna Bartell
Recording Secretary