

Town of Exeter
Zoning Board of Adjustment
December 16, 2025, 7 PM
Town Offices Nowak Room
Draft Minutes

I. **Preliminaries**

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

Members Absent: Laura Montagno, Kevin Baum

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

I. **New Business**

- A. The application of Amanda Cain and John Forbes for a variance from Article 4, Section 4.3 and Article 5, Section 5.1.2 A for the expansion of a non-conforming use to permit the proposed construction of a 20' x 45' detached garage within the side yard setback on the property at 17 Harvard Street; and a variance from Article 4, Section 4.3 Schedule II: Density and Dimensional Regulations for relief from the maximum building coverage requirement. The subject property is in the R-2, Single Family Residential zoning district. Tax Map Parcel #73-178. ZBA Case # 25-10.

Applicants Amanda Cain and John Forbes were present to discuss their application. Ms. Cain said at last month's meeting, we made the first attempt to get the variances to rebuild our dilapidated garage. We were denied due to the size of the structure, so we're reapplying with a smaller structure that still includes the garage with a finished bedroom and bathroom above it. The spirit of the ordinance is that we're trying to improve our property and our house value which would increase the value of the other houses and properties in the area. In our denial letter, we were told that we did not show unnecessary hardship, but we disagree. We have two boys that share a 9x13' bedroom. Our house is 14,000 square feet. Mr. Prior said he hopes she means 1,400 square feet, and she agreed that 1,400 was correct. Ms. Cain said the kids can't have friends over and we can't have guests come to stay. We have increased costs and stress in reapplying for this variance. There's current construction on our street on a similar project and they were shocked that ours was denied.

Ms. Cain said at the last meeting, it was stated that there needs to be a 15-foot setback, but she believes that's incorrect and only a 10-foot setback is required. Our garage is currently 14'x22', and we're looking to make it wider and further back.

Mr. Prior said they mentioned that a neighbor is building something. Did they come before us for any variances or special exceptions? Ms. Cain said yes

45 but we did not receive any notification. Mr. Prior said he doesn't think so, as this
46 is the first request he remembers from this neighborhood in quite some time. Mr.
47 Eastman said if they can give him a street address he can check the files. Mr.
48 Forbes said 16 Harvard Street. Mr. Prior said he doesn't recall them having to
49 ask for any variances or special exceptions, so it was probably conforming.
50 You're allowed to build in the same footprint. You're using the phrase
51 unnecessary hardship in the incorrect way. It's not about having two kids or a
52 boat. It means that owing to the special conditions of the property, the property
53 cannot be reasonably used in strict conformance with the ordinance.

54 Mr. Eastman said regarding 16 Harvard Street, there was no zoning relief
55 requested. She moved the garage 10 feet but it met the setbacks.

56 Mr. Prior said if you want to expand and it's within the lot coverage and
57 setbacks, you wouldn't be here. If you want to rebuild your garage in the same
58 footprint, go for it. The part that touches the property line behind the existing
59 garage is encroaching into the setbacks. Mr. Forbes said it's already in the
60 setbacks. Mr. Prior said that's correct, and this would be an expansion of that
61 non-conforming use. All of that development pre-dates zoning. Setbacks weren't
62 a thing before 1972. Whoever built your garage put it on the property line. You
63 could rebuild it in the same spot. It's when you expand that use that we're looking
64 at it.

65 Ms. Davies said zoning is about the property. Mr. Forbes asked if she
66 knows where their property is this week. Ms. Davies said she had been out to
67 see it prior to the last meeting and absolutely knew where it was. Zoning is about
68 the property, and the rights go with the property, not the owner. That's what we're
69 tasked with dealing with. When Bob says the size of your family is not a hardship,
70 it's because zoning is not about the owner. If we were to grant relief for a specific
71 thing, it goes forward and can be a permanent right that changes the value and
72 use of the property. Mr. Forbes said the Board's problem the last time was that it
73 would look like a car repair place. Wouldn't that use have to come back before
74 the Board? Ms. Davies said yes. Mr. Prior said this is a residential use and it's
75 going to stay a residential use, there's no question about that. Mr. Forbes said
76 last time Laura said it could be used as a car repair shop. Mr. Prior said it's in
77 everyone's best interest to bring the tone and volume down. We're all on the
78 same page. Once something's there, it's there. It's unlikely this would ever be
79 used in that way, but it could be. Once you allow a building of a certain size on
80 the property, it can be used in different ways. We have to think about the future in
81 these decisions. Zoning is blind to whomever lives in the house; it's about the
82 property and how it fits into the neighborhood.

83 Mr. Forbes said that the Board wasn't worried about the future. Laura
84 came to us and said initially the style was the issue, but that's not for her to say.
85 Then she said she was worried it could be used as an auto body shop in the
86 future. That's a commercial purpose and would need approval.

87 Mr. Prior asked if the Board has any questions for the applicants. Ms.
88 Davies asked if the new proposal is still two stories. Ms. Cain and Mr. Forbes

89 said yes. Mr. Prior observed that there were no images of the building this time.
90 Ms. Cain said she felt that last time they were overly transparent and didn't need
91 to disclose certain things about the materials and the building.

92 Mr. Prior said the specific relief being sought is to expand the footprint of
93 the building from 22 feet deep to 45 feet. There is going to be an expansion of
94 the width from 14 feet to 20.

95 Mr. Dal Santo said we're under constraints by the laws. He's interested in
96 what options they've looked at in terms of not having to come before this Board.
97 Ms. Cain said the current garage sits on the property line. We're looking to
98 maximize our yard usage and the area that kids can play privately. Leaving 10
99 feet on the sides seems like we're wasting space that is currently taken up by the
100 garage.

101 Ms. Pennell said in the application under the fifth requirement, literal
102 enforcement of the provisions, there is a sentence that literal enforcement would
103 not allow for bedroom and recreational space for the boys that share a bedroom.
104 Ms. Cain said the second floor would be a bedroom. Ms. Pennell asked if there
105 would be a bedroom and a bathroom. Ms. Cain said that's correct. Mr. Prior said
106 last time we established that the house is on water and sewer, so there's no
107 issues there. Ms. Pennell asked what Mr. Prior means by "last time." Mr. Prior
108 said they were before us last month for a similar application that was denied. It
109 was for a larger building in roughly the same location. His preamble focused on
110 the fact that the Board did not feel it met the criteria for unnecessary hardship.

111 Mr. Prior said there is no one present from the public to comment. He
112 asked if the applicants would like to say anything further, but they declined. The
113 Board entered into deliberations.

114 Ms. Davies said last time, we brought up the law about accessory
115 dwelling units. She has information from the Business and Economic Affairs
116 Department of NH about the new House Bill. It was effective as of July 1, 2025.
117 There's a provision that a municipality shall allow ADUs to be converted from
118 existing structures regardless if such structures violate current dimensional
119 requirements for setbacks or lot coverage. Mr. Prior said that refers to the
120 building that currently exists. They could put a second story on the existing
121 building and make it an ADU, but this is an expansion of a non-conforming use,
122 so the new building requires a variance. It could be used as an accessory
123 dwelling unit, there's no question about that. He added that the Exeter zoning
124 ordinance will have to be changed to keep up with these changes in the State
125 laws, which he assumes will be done at the next Town Meeting.

126 Mr. Prior went through the variance criteria specifically for the expansion
127 of a non-conforming use within the side yard setback: 1) The variance will not be
128 contrary to the public interest and 2) The spirit of the ordinance will be observed;
129 yes, he doesn't believe this conflicts with the ordinance. It's ok to have a garage
130 of this size. Having that building there does not alter the essential character of
131 the neighborhood or threaten public health, safety or welfare. Ms. Davies said it's
132 a significant expansion of a non-conforming use. It's doubling the size. Mr. Prior

133 said it's going from 300 square feet to 900 square feet, so it's tripling the size, but
134 not all of that is within the setback. He's ok with criteria 1 and 2. 3) Substantial
135 justice is done; Mr. Prior said he doesn't believe there's any harm to the general
136 public. The bulk of the abutting properties are multi-family properties with
137 absentee landlords. It's not surprising they're not here. Ms. Olson-Murphy said 4
138 of the 7 abutters are not the homeowner, so more than half of them are
139 absentees. Mr. Prior said if any of those owners felt they were being harmed by
140 this, they've had the option to step forward twice. It appears that the application
141 passes on criteria 3. 4) The value of surrounding properties will not be
142 diminished; yes, we've had no testimony from experts saying that the value of
143 surrounding properties will be diminished. 5) Literal enforcement of zoning
144 ordinance will result in an unnecessary hardship. Mr. Prior said literal
145 enforcement would be building in the same footprint of 300 feet in size, which
146 would make a very small room up there. Unnecessary hardship means that
147 because of special conditions of the property that distinguish it from other
148 properties in the area, but there is nothing that distinguishes it, such as the shape
149 of this lot or its isolation, from other properties. The only thing that distinguishes it
150 is the shared driveway right at the property line. The alternate explanation of
151 criteria 5 is that owing to special conditions of the property, the property cannot
152 be reasonably used in strict conformance with the ordinance. He doesn't believe
153 there's anything about this property that distinguishes it from any other in the
154 neighborhood. Ms. Olson-Murphy said she reviewed the size, and it's actually
155 one of the larger lots of the surrounding properties. The total property is 0.2
156 acres. Mr. Prior said that is a small lot, but not a special condition that
157 distinguishes it from other properties in the area. This is in the R2 Single Family
158 residential zoning district, which covers a lot of the Town of Exeter. We've
159 established that it's possible to put a building of the size they want on the lot in a
160 way that does conform, but it would be right in the middle of the backyard. This
161 appears to be a normal rectangular lot, but because of the location of the home
162 and driveway, for it to be used in strict conformance would be difficult. Ms. Olson-
163 Murphy said she's hung up on the "reasonably" in "cannot be reasonably used in
164 strict conformance." You could still get a decent-sized garage with a good-sized
165 room above and we would be able to work with that. This is a much larger garage
166 than usual. Ms. Davies said she thinks it's being reasonably used in its current
167 condition in conformance with the ordinance. It's slightly smaller than before but
168 still on the lot line and still a very large space. Ms. Olson-Murphy said there
169 should have been some effort to get it off the lot line. Mr. Prior said 19 Harvard
170 street is also located toward the front. It's as far back off the street as 17, which
171 is hardly at all, maybe 5 feet. In terms of impact on the owner of 19, we've had no
172 testimony. 52 and 50 Winter Street are located toward the front of their lots.

173 Mr. Prior asked for a motion if there was no further discussion. He added
174 that the Board hadn't yet started discussing the second variance request.
175

Ms. Olson-Murphy made a motion to deny the application of Amanda Cain and John Forbes from Article 4, Section 4.3 for the expansion of a non-conforming use to permit the proposed construction of a 20' x 45' detached garage within the side yard setback on the property at 17 Harvard Street, based on the fact that the land itself does not condone a hardship to the applicant. Mr. Dal Santo seconded. Ms. Olson-Murphy, Ms. Davies, and Mr. Dal Santo voted aye. Ms. Pennell and Mr. Prior voted nay. The motion to deny passed 3-2.

Mr. Prior said there's no point in going on to the second variance. If they can't expand the existing use, the lot coverage becomes moot.

II. Other Business

A. Approval of Minutes: October 21, 2025

Ms. Olson-Murphy moved to approve the minutes of October 21, 2025 as submitted. Mr. Dal Santo seconded. Mr. Prior, Ms. Olson-Murphy, Ms. Davies, and Mr. Dal Santo voted aye. The motion passed 4-0.

B. Approval of Minutes: November 18, 2025

Ms. Olson-Murphy moved to approve the minutes of November 18, 2025 as submitted. Ms. Davies seconded. Mr. Prior, Ms. Olson-Murphy, Ms. Davies, and Mr. Dal Santo voted aye. The motion passed 4-0.

III. Adjournment

Mr. Dal Santo moved to adjourn. Ms. Olson-Murphy seconded. All were in favor and the meeting was adjourned at 8 PM.

Respectfully Submitted,
Joanna Bartell
Recording Secretary