

Town of Exeter
Zoning Board of Adjustment
May 19, 2026, 7 PM
Town Offices Nowak Room
Final Minutes

I. **Preliminaries**

Members Present: Chair Robert Prior, Vice-Chair Laura Davies, Clerk Esther Olson-Murphy, Laura Montagno, John Dal Santo - Alternate

Town Code Enforcement Officer Doug Eastman was also present.

Members Absent: Kevin Baum, Martha Pennell - Alternate

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

I. **New Business**

- A. The Zoning Board of Adjustment will hold a public hearing on the application of Lot 139 LLC for property located at 29 Front Street, Tax Map 73, Lot 225, in the C-1, Mixed Use Neighborhood Development (“MUND”). The Applicant seeks Variance relief from Section 4.4 – Density and Dimensional Regulations, non-residential, for height and lot area/dwelling unit of the Zoning Ordinance to permit construction of a three (3) unit residential building in keeping with the historic area.

Henry Boyd of Millennium Engineering, Rachel Jones of Art Form Architecture, and Monica Kieser of Hoefle, Phoenix, Gormley & Roberts, PLLC were present to represent the applicant, Steven Eddy, who was also present.

Mr. Boyd said this lot has existed as a vacant lot for quite some time, and there's quite a case history with this. There was substantial relief granted in the past, as well as many extensions, but everything has expired. In the old plans, the building that was approved for a variance was sitting right on Front Street. He spoke with Doug Eastman, who said that the front setback would be zero because of abutting structures, and the side setback would be six feet based on an average of abutting structures. We've honored those setbacks, but the front is further back, with the stair at 2.1 feet from the right-of-way. We are here for a slight height variance from the limit of 35 feet for a residential building. There are buildings of varying heights and uses in the area. Initially we had tried for a 45-foot height, believing they could go up to 50, but that doesn't work without including a commercial space. There's also a variance requested for lot area by dwelling unit. We do accommodate parking onsite, so there's no need for parking relief.

Ms. Jones said we are requesting a modest height variance to allow for a traditionally-designed roof form and allow a third floor while still being in keeping with the surrounding district. The building will be lower in height than several

45 adjacent structures. It would not be introducing a new scale or intensity to the
46 neighborhood. This structure is located within the Historic District, so maintaining
47 proper architectural proportions was extremely important in the design process.
48 In order to stay under the height restriction, we would have to flatten the roof
49 pitch, which would make the structure feel less authentic and less consistent with
50 the architecture in the area. Many of the buildings in this area achieve the stories
51 without the height because they have six-foot ceilings. We started with nine-foot
52 ceilings but scaled it down to eight feet, which brought us to the total height of 37
53 feet 9 inches. This development would create additional housing opportunities
54 that would be integrated into the existing developed area. The requested relief
55 does not create a substantial negative impact to the neighboring properties. This
56 proposal supports the spirit of the ordinance, the community's broader housing
57 needs, and the historic architectural character. It is a balanced and reasonable
58 approach to this site.

59 Mr. Prior asked for examples of surrounding buildings that are taller than
60 the proposed building, excluding the Baptist Church which has a steeple. Mr.
61 Boyd said he prepared a table with that information but that Mr. Phoenix [of
62 Hoefle, Phoenix, Gormley & Roberts, PLLC] asked that it be removed. Mr. Boyd
63 added that as you move west on Front Street, there are a couple of buildings that
64 are of the same style at 2 ½ stories that are old, but they don't come to the same
65 height. We have to conform to current codes. Map 72 lot 197 is 30.44 feet. Map
66 72 lot 198 is 54 feet. Mr. Prior said that's the church. Mr. Boyd said Map 72 lot
67 199 is 26.87 feet. Map 72 lot 200 is 26.1 feet. Map 72 lot 201 is 31.2. Mr. Prior
68 said that's the old phone company building. Mr. Boyd said map 72 lot 219 is 26.5
69 feet. Mr. Prior said that's the immediate abutter to the rear on Center Street. Mr.
70 Boyd said map 72 lot 222-2 is 33.5 feet. Mr. Prior said that's the house
71 associated with the Congregational Church. Mr. Boyd said map 72 lot 221 is 30.8
72 feet. Mr. Prior said that's the immediate neighbor, the brick one. Mr. Boyd said
73 map 72 lot 222 is 55 feet high and the steeple is 114 feet. Map 72 lot 3 is 33.7
74 feet. Mr. Prior said that is one of the Federal-style homes. Mr. Boyd said map 72
75 lot 159 is 47.5 feet. Mr. Prior said that is the hotel. Mr. Boyd said map 72 lot 160
76 is 34.9 feet. Map 72 lot 161 is 35 feet. Mr. Prior said that's the Post Office. Mr.
77 Boyd asked if the Board would like more examples, and Mr. Prior said that's
78 sufficient.

79 Attorney Kieser said that in her memorandum, there's a relief chart that
80 specifies the request we're making. We're requesting relief from lot area per
81 dwelling unit; the requirement is 3,500 square feet per dwelling unit, while the
82 proposed is 1,166.67 square feet. The height required is 35 feet, and we're
83 requesting 37.75 feet or 37 feet 9 inches. Regarding the prior history of this case,
84 a similar project was before the ZBA in 2014. There was a building here
85 associated with one of the churches, which burned down. Mr. Prior said it was a
86 church. Attorney Kieser said the lot has been vacant since that time, for 23 years.
87 Occasionally there has been interest in this property but then they start looking
88 into what they can do and it passes on to the next owner. This tells you about the

89 constraints that zoning puts on the property. It's surrounded by a mix of
90 educational, institutional, commercial, and residential uses. It may not be
91 someone's first choice to construct a single-family home there, because of the
92 size and surroundings. That's what would lead an owner to propose a multi-unit
93 use. That was what was approved by this Board in 2014. The lot coverage and
94 setbacks are compliant, as determined by the Building Inspector. It provides
95 parking. The placement and design of the building provide a significant buffer to
96 the property behind us. There's some breathing room around it on both sides. It's
97 hard for abutting neighbors, who have been used to open space there for a long
98 time, to have something built there, but that is the scenario. This is a lot that has
99 been vacant for a long time and should be developed. If we were proposing a
100 mixed-use, we would not need any height relief at all. This devalues the height
101 restriction by using it to promote mixed-use; if you're the person next door, all
102 you know is that the structure is 40 or 50 feet. Mixed-use would be nice, but the
103 demand just doesn't seem to be there, particularly since the pandemic. Housing
104 continues to be in significant demand. People like to have the advantages of
105 being downtown with a place to put their car and walk to all that Exeter has to
106 offer. This is trying to provide an opportunity for a smaller house as an entry point
107 or for someone trying to downsize. This design comes with an elevator, which
108 opens opportunities to elders or other people who may not have otherwise been
109 interested in a third-floor unit. It's appropriately designed for a Historic District,
110 but will have modern amenities.

111 Attorney Kieser went through the variance criteria: 1) The variance will
112 not be contrary to the public interest and 2) The spirit of the ordinance will be
113 observed; the case law says the Board has to determine whether granting a
114 variance would unduly and to a marked degree conflict with the ordinance. Mere
115 conflict is not enough to deny a variance. These are modest two-bedroom units
116 which are walkable to amenities and have compliant off-street parking, lessening
117 congestion. These are fully code-compliant new homes, which is good for
118 securing safety. The elevator helps with accessibility. It is a permitted residential
119 use and complies with the other dimensional requirements. It doesn't over-
120 burden the lot or unduly concentrate population. Municipal water and sewer are
121 available and will not be overburdened by the proposed use. This isn't an area
122 with wetlands or other environmental constraints. The proposal does not conflict
123 with the ordinance in a marked degree such that it undermines its basic zoning
124 objectives. This proposal will not alter the essential character of the locality or
125 threaten the public health, safety, or welfare. This area is an eclectic
126 environment, with residential, commercial, educational, and religious uses. This
127 isn't going to be out of place. The Board has heard testimony about heights in
128 this area; this building will not stick out like a sore thumb. It looks historically
129 appropriate for the area. 3) Substantial justice is done; the test here is if there is
130 no benefit to the public that outweighs the hardship to the applicant. That factor is
131 satisfied. This section talks about the property owner's rights to develop the lot,
132 subject only to the requirements from which we're seeking relief. 4) The value of

133 surrounding properties will not be diminished; she would argue that this is a lot of
134 record upon which a structure of this size and height could exist if it had a multi-
135 use or commercial element. She thinks it's better that it only has a residential
136 component. The size of the structure itself and the fact that it's a multi-unit
137 building will not diminish the value of surrounding properties. It's a code-
138 compliant structure in keeping with the Historic District. It accommodates off-
139 street parking. 5) Literal enforcement of zoning ordinance will result in an
140 unnecessary hardship; yes, the special condition is the small lot. It's been vacant
141 for 23 years. It's just sitting there. It still has a significant assessed value, and will
142 require substantial investment to re-establish an attractive structure that fits in
143 with the Historic District. Hardship is primarily about the land, but it doesn't mean
144 that the Board can't consider financial hardship. Sometimes there is a property
145 where for one reason or another a project just can't get off the ground. No fair
146 and substantial relationship exists between the general public purposes of the
147 ordinance provision and the specific application of that provision to the property;
148 the purpose of density and height requirements is to prevent overcrowding and
149 over-bulking and to provide access to air and light. If it were developed for mixed-
150 use, it could be taller, but this is a more compatible use that meets the "market
151 moment." The proposed use is a reasonable one; yes, the case law says that if a
152 use is permitted, it's deemed to be reasonable. Multi-unit is permitted and exists
153 in the area.

154 Ms. Montagno asked about the design, which was rendered in two
155 different ways in the presentation. Ms. Jones said there was a typo, and one of
156 the elevations is the rear view, not the front.

157 Mr. Prior asked if they have been to the HDC or will need to. Ms. Jones
158 said they have not been to the HDC. Mr. Eastman said they will need to. Attorney
159 Kieser said they are starting here but will go to the HDC to have the architectural
160 elements and design evaluated for compatibility with the District.

161 Mr. Prior asked for public comment.

162 Rick Russman of 14 Center Street said in 2011 he was an early adopter
163 of solar. He has no issue with the three-family part, but he does have an issue
164 with the height. One of the purposes of the ordinance is to provide adequate air
165 and light, and light is important for solar arrays. This project violates that. They
166 could go to 7-foot 3-inch ceilings and meet the 35 feet or change the pitch of the
167 roof slightly. There is a legitimate public purpose served by denying the request.
168 There would be a diminution of value if the solar array is blocked. Regarding
169 hardship, they're only saying it would "look nice." Mr. Prior asked about the
170 distance from the back of this structure to his structure. Mr. Russman estimated
171 30 feet. He added that the plan doesn't show any egress for the cars getting in
172 and out. Mr. Prior said there is a paved driveway there already. Mr. Russman
173 said that's not part of this property.

174 Ms. Montagno asked which way his solar array is facing, and Ms. Olson-
175 Murphy said it's facing south. Mr. Dal Santo asked how many days of the year
176 the sun is shining on the solar array. How much of an impact is the 33 inches

177 going to make? Mr. Russman said he doesn't know the impact, and thinks the
178 burden of finding that out should be on the applicant. In the winter, there are days
179 when there is snow and you don't get any gain, but it melts off fast. It's amazing
180 how much output there is there.

181 Mr. Prior asked for further public comment, but there was none. He
182 allowed the applicant to rebut.

183 Ms. Davies asked the applicant if the side ridgeline is of equal height to
184 the front-facing ridgeline. Ms. Jones said it's a little lower; she believes it's under
185 the 35-foot height limit. Only the triangle at the top is non-conforming. Mr. Prior
186 asked if she could attest that the side ridgeline is 35 feet or less. Ms. Jones said
187 no, but she's confident that it is or it could be addressed as a design comment.
188 Mr. Prior asked if they would accept as a condition of approval that the side
189 extension be held to 35 feet, and Ms. Jones said yes.

190 Mr. Boyd said regarding Mr. Russman's statement that the building was
191 30 feet from his structure, it's more like 50 feet from his structure. The structure
192 approved by variance went much further back in the lot. He added that only the
193 gable would be above the 35 feet, so he thinks the impact on the solar array
194 would be minimal. Mr. Prior said the previously proposed building was 43 feet
195 from the abutting structure. Mr. Boyd pointed out where the driveway is on the
196 plan. Mr. Prior asked if there would be a physical separation of the two
197 driveways. Mr. Boyd said yes, it would be substantial.

198 In her response to the abutter's testimony, Attorney Kieser said when you
199 talk about how granting the variance will negatively impact property values, it's
200 easy to hear that this is about the whole project negatively impacting property
201 values. You don't have to determine whether a building will negatively impact his
202 solar panels, only whether the variance, the 33 inches, would create that
203 diminishment. The fact of any building at all will have some effect, but does the
204 variance for 33 inches present any negative impact? That has not been
205 established. Mr. Boyd said we could theoretically build within six feet of the
206 property line in the rear, which at 35 feet would block everything. Mr. Prior said
207 that's not the application we have.

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

209 Mr. Prior asked Mr. Eastman whether in 2014 there was no request made
210 on the lot coverage. Mr. Eastman said when the fire happened, there was total lot
211 coverage by the church. There must have been some sort of relief in the 2014
212 application. It may have been discussed but not made it into the minutes.

213 Ms. Montagno asked the reason for the 3,500 square foot minimum. Mr.
214 Prior said it's to prevent overcrowding. Mr. Eastman said it's 3,500 in the C1
215 district, but only 750 feet along Water Street.

216 Mr. Prior said he feels that the impact to the abutters is minimal, given
217 that we're just talking about a triangle at the top. The applicant is willing to
218 maintain the 35 feet given by right on the transverse elevation.

219 Mr. Dal Santo said Millennium has a capable firm that could put in some
220 calculations to address Mr. Russman's point. Mr. Prior said he did an engineering

221 sketch and it's a very minor change to have the additional 33 inches in height.
222 We're not going to get additional information tonight.

223 Ms. Montagno said given some of our prior cases where we found no
224 property value change, she's in agreement that the 33 inches of blockage for a
225 fraction of the year will probably not have an impact on the property value. Ms.
226 Davies said she's never done an in-depth study of solar panels' effect on
227 property values. She does recognize Mr. Russman's concern that there will be
228 some loss of value to the solar panels, but she doesn't think that translates to a
229 loss of property value.

230 Mr. Prior went through the variance criteria regarding the height variance:
231 1) The variance will not be contrary to the public interest and 2) The spirit of the
232 ordinance will be observed; yes, this is only an additional 33 inches of height on
233 a small portion of the building. 3) Substantial justice is done and 4) The value of
234 surrounding properties will not be diminished; yes, he believes that the Board has
235 addressed both of these criteria. 5) Literal enforcement of zoning ordinance will
236 result in an unnecessary hardship; what is the special condition of this lot
237 compared to other lots in the area? It's not the size of the lot. Setbacks are not
238 being challenged here. It's an empty lot. The proposed use is a reasonable one.
239 There really aren't any special conditions to this property. Ms. Davies said she
240 disagrees. Most of the properties in the area were built when there were no
241 zoning or parking requirements. This building became vacant due to a fire. In the
242 2014 case, we heard testimony about the inability to entice commercial interest in
243 the property because there's no provision for onsite parking unless you make the
244 building so small that it's not financially feasible. The lot next to Cornicello never
245 got developed either, because there's no place to put a car. The small lots in
246 downtown are constrained so it's difficult to get someone to invest in these
247 properties.
248

249 Ms. Davies made a motion to approve the application of Lot 139 LLC for the
250 property located at 29 Front Street, Tax Map 73, Lot 225, in the C-1, Mixed Use
251 Neighborhood Development ("MUND") District for variance relief from the
252 maximum height requirement of 35 feet to allow 37.75 feet in the ridgeline facing
253 Front Street, and to require that the transverse ridgeline adhere to the maximum
254 height requirement according to code. Ms. Montagno seconded. Mr. Prior, Ms.
255 Olson-Murphy, Ms. Davies, Ms. Montagno, and Mr. Dal Santo voted aye. The
256 motion passed 5-0.

257
258
259 Mr. Prior asked if the Board wanted to discuss the criteria for the lot size
260 variance. Ms. Davies said we discussed the constraints of the small lots
261 downtown. They have been able to accommodate on-site parking. She's in favor
262 of this even though it's a significant increase in density from the requirement of
263 3,500 feet per unit. It makes a lot of sense and is consistent with the surrounding
264 properties. Mr. Prior said he thinks it would be a real constraint to force someone

265 to adhere to that on such a small lot. This is a nice building on a vacant lot, it's
266 worth it. Ms. Davies said we've approved residential units without parking, so the
267 fact that it has onsite parking is refreshing.
268

269 [Not voted] Ms. Olson-Murphy made a motion to approve the application of Lot
270 139 LLC for the property located at 29 Front Street, Tax Map 73, Lot 225, in the
271 C-1, Mixed Use Neighborhood Development ("MUND") District for variance relief
272 on the area per unit required, allowing for them to have 1,166.67 per unit where
273 3,500 square feet is required. Ms. Montagno said the variance application says
274 tax map 72. Mr. Eastman said the motions should be redone with the correct
275 map and lot.

276
277 Ms. Davies made a motion to amend the previously approved motion for height
278 variance for 29 Front Street to read tax map 72 lot 220. Ms. Montagno seconded.
279 Mr. Prior, Ms. Olson-Murphy, Ms. Davies, Ms. Montagno, and Mr. Dal Santo
280 voted aye. The motion passed 5-0.

281
282 Attorney Kieser said the total lot size is 4,284 square feet; divided by
283 three, that's 1,428 square feet per unit.
284

285 Ms. Olson-Murphy made a motion to approve the application of Lot 139 LLC for
286 the property located at 29 Front Street, Tax Map 72, Lot 220, in the C-1, Mixed
287 Use Neighborhood Development ("MUND") District for variance relief on the area
288 per unit required, allowing for them to have 1,428 per unit where 3,500 square
289 feet is required. Ms. Davies seconded. Mr. Prior, Ms. Olson-Murphy, Ms. Davies,
290 Ms. Montagno, and Mr. Dal Santo voted aye. The motion passed 5-0.

291
292
293 **II. Other Business**

294 A. Approval of Minutes: March 17, 2026, and April 21, 2026
295

296 Ms. Montagno made a motion to approve the minutes of March 17, 2026 as
297 presented. Ms. Olson-Murphy seconded. Mr. Prior, Ms. Olson-Murphy, Ms.
298 Davies, and Ms. Montagno voted aye. The motion passed 4-0.

299
300 The Board tabled the minutes of April 21, 2026 until the next meeting.
301
302

303 **III. Adjournment**

304
305 Mr. Dal Santo made a motion to adjourn. Ms. Olson-Murphy seconded. The motion passed 5-0
306 and the meeting was adjourned at 7:30 PM.
307

308 Respectfully Submitted,
309 Joanna Bartell
310 Recording Secretary
311