

Town of Exeter
Zoning Board of Adjustment
July 21, 2026, 7 PM
Town Offices Nowak Room
Draft Minutes

I. **Preliminaries**

Members Present: Chair Robert Prior, Vice-Chair Laura Davies, Clerk Esther Olson-Murphy, Laura Montagno, Kevin Baum, John DalSanto - Alternate, and Adam Carter - Alternate. Town Code Enforcement Officer Doug Eastman was also present.

Members Absent: Martha Pennell - Alternate

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

I. **Approval of Minutes**

A. June 16, 2026

Ms. Davies said since she didn't participate in the final case of the June 16 meeting, her vote will reflect that.

Ms. Olson-Murphy moved to accept the minutes of June 16, 2026 as presented. Ms. Montagno seconded. Mr. Prior, Ms. Davies, Ms. Montagno, Ms. Olson-Murphy, and Mr. Carter voted aye. The minutes were approved 5-0.

II. **Old Business**

A. Pursuant to RSA 677:3, the Zoning Board of Adjustment will rehear ZBA Case #26-2, an application by Phillips Exeter Academy for a Special Exception to permit duplex dwellings at 35– 37 River Street (Tax Map 72, Lot 99) in the R-2 Single-Family Residential District.

Attorney Eli Leino of Bernstein Shur, Corey Belden from Altus Engineers, PEA Facilities Management Director Mark Leighton, PEA Senior Capital Project Manager Joana Rossi, and PEA Campus Planner and Architect Heather Taylor were present to discuss this application.

Attorney Leino said before the rehearing was approved by the Zoning Board, we attended technical review. The Board should now have had an opportunity to review what the abutters presented, as well as the McKeon value report. Ms. Montagno asked if the McKeon report is the letter itself. Attorney Leino said yes, the Board has everything that he prepared for us. He said that previously, the Board was concerned about ceding jurisdiction over health, safety, and welfare to the Planning Board, but there are different roles statutorily with these two boards. Mr. Belden said we met on April 21, and the project was initially approved by the Zoning Board. The site plan was submitted on May 12, which let us go to the Technical Review Committee on June 4. In the application letter for technical review, we said a special exception was granted for two

45 duplexes in the R-2 district, but the ZBA requested that safety along River Street
46 be considered. The applicant is open to recommendations to address potential
47 safety concerns on River Street or Browns Court that would result from additional
48 driveways. Neither the Fire nor Police had any concerns about safety, as this is a
49 dead end street with very minimal traffic. We will be going back to the Planning
50 Board after getting the ZBA's approval.

51 Mr. Baum said the language used on April 21st was "with particular
52 attention paid to safety, as it applies to access, visibility, and emergency access,
53 all related to driveway placement." He's sure that from the Police and Fire
54 perspective, emergency access was important, but were the other topics
55 discussed - visibility, safety, and emergency access? Mr. Belden said certainly
56 emergency access was discussed. There were no concerns about visibility or
57 access. Ms. Davies asked who was on their technical review committee. Mr.
58 Belden said the Planning Director, the Environmental Coordinator, Police, Fire,
59 and Paul Vlasich the City Engineer, as well as Code Enforcement. That meeting
60 was on June 4. The site plan was submitted on May 12.

61 Attorney Leino said this Board granted rehearing because of a rules of
62 procedure issue in not reading in the letter that was raised. The Board's
63 opportunity to review the document has now been completed. Mr. Eastman
64 determined that we are eligible for a special exception under the ordinance. Mr.
65 Prior asked if Mr. Eastman would recap the decision. Mr. Eastman confirmed that
66 in the R-2 zone, duplexes are permitted by special exception. This meets the
67 criteria for the maximum amount of 24,000 square feet per duplex. We're talking
68 about the lot that will be merged with their larger parcel. Mr. Prior said our
69 judgment is dependent on this small lot being merged into the 50-acre parcel of
70 the existing campus. Ms. Davies asked how the other uses on the 49-acre parcel
71 play into that. Mr. Eastman asked if they do play into that. If there were a single-
72 family home, they could put in a tennis court or baseball diamond because it
73 would be an accessory to the primary use. This was a cleaner way to go, rather
74 than say it was an accessory to the primary use, because we've done other
75 projects like this with special exceptions, like O'Neil Court. Mr. Baum asked if his
76 position is that this is not two primary uses, the housing use is an accessory to
77 the school use? Mr. Eastman said no, there is a history of other faculty housing
78 on their property treated as special exceptions, such as O'Neil Court. Ms.
79 Montagno asked if the fact that there's no building there now changes any of this,
80 and Mr. Eastman said no. Ms. Montagno asked how we can put three duplexes
81 there. Mr. Eastman said they have the lot area. Mr. Prior said the parcel is not
82 the small lot under development, it's the 49 acres. Mr. Baum said there are other
83 special exception criteria in the R-2 zone that permit multiple structures, such as
84 multi-family open-space developments. Ms. Montagno asked if this now falls into
85 an open-space development because of the large parcel. Mr. Eastman said there
86 are other criteria they would have to meet for an open-space development. It's
87 apples and oranges. Mr. Prior said this is a well-developed historic campus, not
88 an open space.

89 Mr. Baum asked how the town has applied section 5.2 in the past. It
90 applies to a one-family detached dwelling, but there are bed and breakfasts and
91 museums in the R-2 zone with multiple structures. Mr. Eastman said he doesn't
92 know. You have to look at each case separately, unless the case is exactly the
93 same.

94 Attorney Leino said if there is an ordinance that is unclear, administrative
95 law requires you to continue interpreting it in the same way. You can't say one
96 time it's A and another time it's B. We regard how the school has been used, for
97 example the O'Neil Court development which was merged into the larger parcel,
98 where the primary use is the school, and faculty housing is a mission-critical
99 aspect of that. Having an institution of this size, which existed long before zoning
100 came, and not having an overlay for the school, creates these challenges when
101 trying to modernize the campus.

102 Mr. Prior asked if O'Neil Court is part of the 50 acres, and Mr. Belden said
103 yes. There are 10 existing residential units on that lot, and one existing duplex.
104 Mr. Prior asked if the three houses on Chadwick Lane and the two houses on
105 Court Street are isolated from the larger parcel. Mr. Belden said yes. Mr. Prior
106 said the only residences on the 50-acre parcel are on O'Neil Court. Mr. Belden
107 said there are also residences that front onto Court Street.

108 Mr. Baum asked if the lot goes over the river. Mr. Belden said that piece
109 is not connected. It's a separate lot across the river

110 Attorney Leino said it was an administrative decision interpreting the
111 ordinance by Mr. Eastman at the April meeting, and there was an administrative
112 appeal filed on that, but he believes the April determination still holds.

113 Attorney Leino went through the special exception criteria. A) The use is a
114 permitted special exception as set forth in Article 4.2, Schedule I; yes, two-family
115 houses are allowed by special exception. The property is zoned R-2, and we
116 have adequate space to meet that requirement once the lot is merged. B) That
117 the use is so designed, located and proposed to be operated that the public
118 health, safety, welfare, and convenience would be protected; yes, the close
119 abutting structures are a mix of single-family homes, duplexes, and larger
120 developments. The average-sized housing in this neighborhood is 2.1 units.
121 We're looking to put in 2 units per building. It's designed to fit the neighborhood.
122 They will be 3-bedroom, attractive units. We tried to break up the massing of
123 these larger buildings. Mr. Belden said this project is one of the safest locations
124 he's done: it's residential on a dead-end street. There's only one driveway after
125 our driveways. There are townhouses and multi-unit residential on the street
126 which were permitted in the last five years. When going through technical review,
127 Police and Fire did not have any concerns. We're open to addressing any safety
128 concerns as part of the Planning review process. He doesn't see a few driveways
129 on a dead-end street as a safety concern. Attorney Leino said the law requires
130 one parking space per unit, but each unit has two, including one internal parking
131 space. There shouldn't be regular parking on the roads that would create a
132 hazard. Attorney Leino continued with the criteria: C) That the proposed use will

be compatible with the zone district and adjoining post-1972 development where it is to be located; yes, this is the R-2 zone which allows duplexes by special exception. This neighborhood is a mix of singles, doubles, triples, and multi-family apartment units. This won't change the character of the neighborhood. D) That adequate landscaping and screening are provided; these homes don't really have a screening requirement the way a larger commercial use would have. There would be some natural screening and bushes planted. We'll go through site plan review on that. There are no requirements for fences. Mr. Baum asked if any of the existing trees would be retained. Mr. Belden said there is a tree cluster on the south end of the property that would be retained. We're looking at other areas of trees; if they are healthy and in good shape, and in areas that can be maintained, we would look at trying to keep those. Mr. Prior asked if the cross-hatched oval on the site plan is stormwater management. Mr. Belden said yes, but it's taken a different shape under site plan review. We've submitted plans per the stormwater regulations. Mr. Prior asked if there are any additional wetland criteria to meet for this development, and Mr. Belden said no, we're outside the buffer. Mr. Baum said the area where they indicated trees would be retained is where the drainage is shown. Mr. Belden said the drainage would be in a slightly different location than shown on the plan. This was more of a schematic created for the zoning application. Mr. Baum asked if they are putting on the record that they will preserve an area of trees at the rear of the lot. Mr. Belden said yes, provided that the trees are healthy. Attorney Leino said any construction has a risk of damaging tree roots. The trees nearer the buildings are probably not going to stay. Further south of the buildings, there are some copses that would be preserved. Attorney Leino continued with the criteria: E) That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets; yes, we double the amount of parking required by the current state law. The technical review committee looked at this. This is a low-speed street, not a through street. There may be some cars backing out, but not onto a major artery. We meet this criteria with regard to the site design. Ms. Montagno asked how they made sure there was adequate site distance for cars entering. Mr. Belden said when you're parked in the driveway there's room to back out. Attorney Leino said it would be a bigger issue on a road with a curve or elevation change. DOT requires roadways to be offset so you don't take a left into another car. We don't have this issue based on the fact that it's a limited-access, dead-end road. You wouldn't propose this on a main through street in a town. This is a flat, straight, grid-like street. Ms. Montagno asked if there needs to be additional considerations because this is a dead-end street and you may have people stopping and turning around. Mr. Prior said we heard testimony at the previous meetings that people think River Street offers access to the Academy. There's already turning around that takes place there. Would the applicant put in signage to alert people before they turn into the dead-end street? Mr. Belden said it depends if signage is requested by the town. Mr. Prior said people would appreciate the Academy taking the lead on that. Mr.

177 Belden said it would be on town property so we would need to work with the town
178 on it. Attorney Leino said these driveways would add options for turning around.
179 We have no issue with adding signage. He continued with the criteria: F) That the
180 use conforms with all applicable regulations governing the district where located;
181 yes, we are inside the setbacks from neighboring properties. No variance relief is
182 needed for this project. We'll be going through site plan review for the rest of it.
183 Mr. Prior asked Mr. Eastman if there's a question about the internal setbacks
184 between the two properties on River Street. Mr. Belden said there are code
185 requirements we'll need to meet regarding separation and fire walls. The
186 buildings are 15 to 20 feet apart. Mr. Prior said his question was about zoning.
187 Mr. Belden said there's only a fire code requirement. Mr. Prior said the Academy
188 has testified that they will meet fire and safety codes for distance between the
189 buildings. Attorney Leino continued with the criteria: G) The applicant may be
190 required to obtain Planning Board or Town Planning approval; yes, we
191 acknowledge that we will go for site plan review for this project. We've already
192 commenced that process, pending a favorable decision here. Mr. Prior asked if
193 they would have to go back for a second technical review. Mr. Belden said no,
194 we've received written comments from technical review that we could address
195 and then proceed to the Planning Board. Mr. Prior said there could be a condition
196 on tonight's approval to require another technical review. Attorney Leino said he
197 understands. He continued with the criteria: H) That the use shall not adversely
198 affect abutting or nearby property values; the Board now has the McKeon report.
199 Mr. McKeon has done 30 years of assessing work on 1-4 unit properties. For
200 methodology, he considered the sales of buildings near duplex projects vs
201 homes not near to these projects. His report states that there are already several
202 2- and 3-unit properties in the area. It is his professional opinion that the
203 construction of three duplex-style homes at 35-37 River Street will not diminish
204 the values of surrounding residential properties. Mr. DalSanto asked if that is
205 relative or absolute values. Attorney Leino said Mr. McKeon tried to equalize real
206 estate increases by looking at similar properties sold in the same time period.
207 Ms. Davies said the report says he looked at mixed neighborhoods against this
208 neighborhood, where there's also a mixture, and concluded they were
209 comparable. There's no contrast from which to draw any conclusion that there is
210 no difference in value. Attorney Leino said he feels the document speaks for
211 itself. Mr. McKeon found that sales were consistent. [Criteria I) and J) were not
212 discussed.]

213 Mr. Prior opened the session for public comment.

214 Mr. Prior said a resident had submitted a report on July 20 and it arrived
215 on the Board's desk this evening. Mr. Prior read the letter into the record:

216 *Dear Members of the Board, regarding Criterion C, compatibility with the*
217 *zoned district and adjoining development. Phillips Exeter Academy's Altus*
218 *neighborhood plan dated March 27, 2026 relies on an average density of*
219 *approximately 2.1 dwelling units per property to support its conclusion that six*
220 *dwelling units across three duplex buildings are compatible with the surrounding*

neighborhood. Respectfully, I believe that that conclusion deserves closer examination for two reasons. First, the density calculation includes properties that are not representative of the neighborhood immediately surrounding the site. Second, the appraisal relies on sales that occurred before this proposal and therefore does not address the effect of the specific development now before the Board. The reported average includes older three-family homes, condominium properties on South Street and Franklin Street, and municipal uses such as the electric substation. While these properties are part of the broader study area, they do not reflect the residential character immediately surrounding 35-37 River Street. Using the properties identified in PEA's own survey but excluding those that do not reflect the prevailing residential pattern, the average density along River Street, Browns Court, River Street Extension, and Court Street is approximately 1.85 dwelling units per property, rather than 2.1. Narrowing the analysis further to River Street and Browns Court, the streets that directly adjoin and will be most affected by this proposal, the average is approximately 1.2 dwelling units per property, including PEA's existing non-conforming three-family property, and approximately 1.1 dwelling units per property if that property is excluded. The appraisal letter submitted by Mark McKeon on April 13, 2026 concludes that the proposed development "will not diminish the value of surrounding residential properties." That conclusion relies primarily on two nearby single-family home sales: 31 River Street, which sold for \$625,000 in June 2024; and 22 River Street, which sold for \$590,000 in August 2025. Both homes sold before this proposal was announced or constructed, so their sale price reflects the neighborhood as it existed at that time. Without additional analysis, those sales do not show how neighboring single-family homes would be valued after three duplex buildings containing six dwelling units are introduced on this 0.36-acre non-conforming parcel. Nor does the appraisal identify comparable sales involving single-family homes adjoining a newly-constructed development similar in density, scale, site configuration, and building form to the proposal before the Board. The homes immediately surrounding this property were built over time, each on its own lot, with varied spacing, architecture, and relationship to the street. By contrast, this proposal would place three identical duplex buildings containing six dwelling units on a 0.36 acre parcel. In my view, that is not consistent with the pattern of development immediately around this site. Respectfully, Kui Waweru.

Attorney Kirsten Allen of Shaheen and Gordon spoke representing abutters to the proposed development: Joseph and Katherine Fischer, Carolyn and Steven Locke, Lars Hollesman, and Brandon Tetler. She submitted an objection to the application for special exception; Mr. Prior confirmed that the Board had received a copy. Attorney Allen said this application is not an application to develop the 49-acre parcel. This is an application for special exception for development of a 0.36-acre lot. There's a proposal for a merger to merge that little lot with other acreage owned by the applicant, because that lot is too small to develop even one duplex. A duplex is allowed in the R-2 district by

special exception, but it requires one principal building per lot and to meet all density and dimensional requirements. It can't do that, so there's a request for the parcel to be merged with the 49-acre lot. Because this duplex cannot be built on a 0.36-acre lot, the whole project relies on this 49 acres. All of this proposal is on the 0.36 acres plus a little tail on the lot. It's separated from the 49-acre lot by a fence. You don't access it. There was testimony at a previous hearing that this would be faculty housing and they would access the campus via key fob. None of that lot is being used for this development. This seems to be an attempt to piggy-back on prior approvals that the applicant has obtained on the 49 acres. There's been discussion of the O'Neil housing, which was a prior merger for a non-conforming use, but the applicant is not here seeking to do that. This proposal is a very simple application for special exception for a duplex. In that case, the applicant has to show that they meet all the requirements in the R-2 district, which means one principal building per lot and meeting the dimensional requirements. RSA 674:33IV(a) says "all special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance." It has to meet *each* rule and regulation in the ordinance. Failure to meet just the setback is sufficient reason to deny the application for a special exception. The application proposes more than one principal building on a single lot, which is a violation of 5.5.3, which permits only one principal building on a lot in a residential district. There's no request for a variance from that requirement. This proposal isn't eligible for special exception. The applicant suggested that it's eligible because duplexes are permitted by special exception in the R-2 district, but it needs to meet all the other requirements, including the density and dimensional regulations in article 4.3 schedule II. The project fails many of these requirements: the minimum lot area of 24,000 square feet; the property in question is 15,000 square feet. The 0.36 acres which is the subject of the development has two duplexes directly on that property. The next section has a third duplex. Each of these sections would need to be on their own lot, and each lot would need to be 24,000 square feet.

Mr. Prior said it was not a condition of approval that the lots be merged; it was a condition proposed by the applicant prior to approval. From the perspective of this Board and this application, the 0.36 lot no longer exists. What we are looking at is a 49-acre parcel. Attorney Allen said it's a proposed condition of the approval of the special exception. Mr. Prior said the applicant proposed it so that there would be a unified lot. We can't infer that they're doing it simply to get the approval. Attorney Allen said the merger hasn't gone through yet. Mr. Prior said it would be done prior to any construction. Attorney Allen said the application for special exception says "as a proposed condition of approval, the school would merge the property into tax map 83 lot 1." She understands the Board's position, but you still have to see whether the proposed application qualifies for a special exception. She feels it does not. 5.5.3 requires one principal building per lot in a residential district. Each lot in the R-2 district has a

309 minimum lot area of 24,000 square feet. There are no boundaries for the size of
310 the buildable lot area, because we're being told it's 49 acres, but we're also being
311 told the 0.36 acres is the only part that matters. The project location is separated
312 by a fence. Mr. Prior said a fence is allowed. This is a legal connection. Attorney
313 Allen said the property is separated by a fence and sports courts. None of the
314 rest of the acreage supports this development. We don't have any information on
315 the site plan about the length, the width, or the lot size which this is under. We
316 know that this part of it is 0.36 acres or 15,000 square feet. Under article 4.3
317 schedule 2, that is too small to house even one duplex, even by special
318 exception. They don't meet the setback requirements. They previously sought a
319 variance for the setback requirement; they said that there was a 20-foot setback.
320 In their current application they're counting the setback from Court Street and
321 Exeter River. Those streets are not adjoining this development, they're way on
322 the other side of campus. This application doesn't meet the article 4.3 schedule II
323 density requirements for a duplex: it's not the minimum lot size, it's not one
324 building per lot, and it doesn't meet the front setback requirements. The side
325 setback is 15 feet, or 30 on both sides; it's only 15 feet between the two buildings
326 where it should be 30. Just one of those reasons is sufficient for the Board to
327 deny the application for special exception. The proposed merger is intended to
328 resolve all these irregularities, but it doesn't. Ordinance 4.5D prohibits using the
329 yard or open space of one lot to satisfy the yard or open space of another lot.
330 None of the 49 acres is contributing to this development, and how much of that is
331 already contributing to other dimensional requirements elsewhere? This is a
332 workaround of the Zoning Board's ordinances and would create a precedent for
333 similar things. There are also traffic and safety concerns. River Street has no
334 parking on the side of the road where this development is proposed. They are
335 putting in two off-street parking spaces for four new units on that side of the road
336 so they can have absolutely no guests. People go down that road looking for the
337 sports courts and turn around. The proposed turnaround area is covered by snow
338 in the winter. This project is not eligible for special exception because it does not
339 meet the criteria.

340 Ms. Davies asked how Mr. Eastman's administrative decision relates to
341 these points. Attorney Allen said he determined that a duplex is permitted in an
342 R-2 zone, but only one is permitted. His decision was dependent on the merger,
343 so there's an assumption that the applicant has all this room it can be done, but
344 the ordinance says there can be one principal building on a lot. Tacking one lot
345 with another lot doesn't grant all the rights that the other lot has. Mr. Baum asked
346 where it states that only one duplex is permitted. Mr. Prior said we wouldn't be
347 here if only one was allowed. Attorney Allen said it's in 5.5.3, "one principal
348 structure."

349 David Wold of 22 River Street asked how many homes are allowed on a
350 49-acre lot. This qualifies because it's part of a 49-acre lot. What's to stop them
351 from putting in 12 homes or 15 homes on this 0.36-acre lot? Mr. Prior said they
352 could, if it met the setback and other requirements. Mr. Wold said at one of the

353 recent meetings, they outlined only the River Street/Browns Court/River Street
354 Extension area as the “neighborhood.” If it’s part of the 49-acre lot, why isn’t that
355 considered the “neighborhood”? Zoning is designed to protect us from areas
356 being overbuilt. If we’re not careful, we’ll lose the character of this town.

357 Kui Waweru of 38 South Street said the applicant talked to Police and
358 Fire but she feels like it’s hearsay. When you’re on the ground there, it feels like
359 safety and well-being are quite constrained. She would like to see a written report
360 on the response to safety concerns.

361 Katherine Forbes Fischer of 36 River Street asked why the applicant
362 changed the rear and front boundaries from the variance application. River Street
363 was the front and Browns Court was the back. Now the front is Court Street and
364 the rear is the Exeter River. Mr. Baum said he’d like to ask the applicants about
365 this when they come back up.

366 Joe Fischer of 36 River Street said River Street is a dead-end street. This
367 winter, there was a lot of snow plowed there, and he had a hard time backing out
368 of the driveway due to the snow drifts. There are 10 trees across the street from
369 his house, will those come down? That’s a sound barrier and a visual barrier
370 that’s been there for 40 years. There are safety concerns with Fire, Police, and
371 Amazon deliveries.

372 In response to the abutters’ testimony, Attorney Leino said a lot merger
373 can be done by right and doesn’t require approval. The idea that this is
374 subterfuge to work around zoning ordinance is incorrect. Mr. Eastman spoke to
375 the applicability of this already. The primary use of this property is a secondary
376 school; the use of faculty housing is subordinate to that. Regarding side
377 setbacks, we had this discussion with town staff. The front of this property is
378 Court Street, so these are side setbacks. Only one street is defined as the
379 frontage for the lot, which is Court Street. Mr. Belden said we’re doing a 20-foot
380 setback for two of the buildings and 25 feet for the third. We feel that we’re
381 meeting all of the zoning regulations. We’re not asking for any relief on this
382 project. If it were determined we needed a 25-foot setback, we can push the
383 buildings back five feet.

384 Attorney Leino said the lot merger is not precedential. Regarding parking,
385 the requirement in the law is one parking space and we’re providing two. There
386 will be times when they have guests, but if it becomes a situation, that’s an
387 enforcement matter, which is outside the Zoning Board’s jurisdiction. Questions
388 about prior applications and how many structures could be put on this aren’t
389 relevant; we’re here requesting these three duplexes. Regarding questions about
390 the lot versus the neighborhood, we’re talking about a 50-acre lot. Where the
391 neighborhood is affected is the immediate area, which is why we’ve centered our
392 plans on that area. Regarding questions about plowing, trees, fire hydrants, etc,
393 those are germane to Planning Board site review. We’ve met the requirement of
394 the special exception criteria with regard to safety, but there will be additional
395 looks at safety as we move forward. Mr. Baum asked if they are going back to
396 technical review. Attorney Leino said if this Board wants that as a condition of

397 approval, we would go to technical review again. Mr. Belden said we have been
398 through technical review and have a letter with comments. We have not been
399 requested to go back to technical review based on the application, so barring a
400 request to go back, we would address the comments we already received and go
401 to the Planning Board next. Abutters would be notified of that application and
402 have an opportunity to come again and have their concerns addressed.

403 Ms. Montagno asked about faculty access to the campus. Mr. Belden said
404 we anticipate that faculty will be able to cross through the tennis courts into
405 campus. Ms. Montagno asked if that's pedestrians, not vehicles. Mr. Belden said
406 that's correct. Attorney Leino said there was no fob required for access in our
407 plans. They'll have direct access to the campus. Mr. Baum asked if the public will
408 have access to the campus. Mr. Leighton said we don't restrict public access to
409 the campus, but these are peoples' backyards, so we would be less open to
410 people walking through this part of the campus. We would probably restrict
411 access at the end of the street. Attorney Leino said if we open that area, it would
412 look like there is access to the ball fields but there is no parking for it.

413 Ms. Montagno asked if technical review is a public meeting. Mr. Prior said
414 it's not a posted public meeting. It's a staff meeting. It's intended to be
415 supplemental to the Planning Board process.

416 Ms. Davies asked about the principal use on the overall parcel. Attorney
417 Leino said it's a private school. Mr. Prior said it's in the special exception criteria
418 for R-2.

419 Mr. Prior closed the public session and the Board entered deliberations.

420 Mr. Baum said this feels like a smaller, stand-alone lot. Looking at the
421 dimensional requirements, it's proper that they proposed this as a merger, and
422 our hands are tied. We have to apply them to the lot as merged. That's been
423 reviewed by the Code Enforcement Officer as well. Ms. Davies said clearly these
424 buildings front on Court Street and River Street. To say that these are side
425 setbacks deserves more consideration. The principal building issue should also
426 be discussed more. Ms. Montagno said O'Neil Court was brought up, but the key
427 difference is that O'Neil Court is its own road and everything is self-contained.
428 This is different. All of the access is on two different public streets. Is it part of the
429 campus, or is it these houses on public streets?

430 Mr. Baum said we have to apply 4.3 Schedule II as proposed, to the
431 merged lot. It feels different, but we can't create additional dimensional
432 restrictions and reduce the size of that lot if it's a merged lot. Mr. Prior said we
433 can't apply the criteria for an individual piece of the lot to the larger, merged
434 whole. Mr. Baum said we can focus on the public health, safety, and welfare
435 aspect on this immediate neighborhood rather than the merged lot.

436 Mr. Baum went through the special exception criteria. A) The use is a
437 permitted special exception as set forth in Article 4.2, Schedule I; yes, this is
438 proposed duplexes that are family homes, which are permitted by special
439 exception in the R-2 district. B) That the use is so designed, located and
440 proposed to be operated that the public health, safety, welfare, and convenience

would be protected; it's fair to consider the surrounding neighborhood. His opinion is that the two duplexes on River Street and the duplex on Browns Court adds more driveways and use, but he believes it's consistent with the surrounding area. The neighborhood has other duplex and multi-family uses. Given that there are two spaces of off-street parking where one is required, he's not concerned there will be any threat to the public health, safety, or welfare. Ms. Montagno said she's not sure she agrees. Fire and Police are looking at the specific criteria they need to access. Are they considering snow? They don't live there, they're not on that street every day, pulling out. The applicant has met the requirements of the ordinance, but that's not a guarantee that it won't be an issue. Mr. Baum said he doesn't think safety is threatened, given what's proposed. Mr. Carter said he drove the dead-end streets in the town. There are dead-end streets that have more development on them, such as Lane's Court with 14 units. There is a precedent for having a number of units in a dead-end space. Mr. Prior suggested requiring as a condition that it goes back to technical review with a more explicit set of questions to be answered. Mr. Baum continued with the criteria: C) That the proposed use will be compatible with the zone district and adjoining post-1972 development where it is to be located; yes, there are a number of other duplexes and larger multi-families in the area. Mr. Prior said the proposed use is residential, which is compatible. Ms. Davies said the abutters' attorney made the point that it's a new multi-building development in an area where all the existing uses are individual parcels with different styles and owners. It becomes a different flavor in that respect. Mr. Prior asked what the issue is with building at the same time instead of at different times. Ms. Davies said it's a multi-family development on a multi-use lot. We've all been through large-scale proposals in our neighborhoods that change how we feel about where we live. It's a single-ownership, single-build, single-management project. Mr. Prior said he doesn't see that as a negative. Ms. Davies said it's different and is not consistent with the neighborhood. Mr. Baum continued with the criteria. D) That adequate landscaping and screening are provided; he suggested that preserving the old-growth pine could be a condition of approval. Mr. Prior said this is not an old growth forest. Mr. Baum said preserving some of the larger trees makes sense. It will get a much more thorough review and landscape plan at the Planning Board. E) That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets; yes, the legislature has carved that back, and the applicant more than meets the statutory requirement. F) That the use conforms with all applicable regulations governing the district where located; in his opinion, with the merged lot, the dimensional requirements are met. The setbacks are confusing, and the front lot line does not look like it applies at this scale, but we have to consider the larger lot. Irregularly shaped lots do not automatically result in two frontage lines. This is not a corner lot. 5.5.3 says one principal building shall be allowed in a residential or manufactured housing district. The applicant has indicated that these are not principal buildings, these

are accessory, considering the overall institutional use of this lot. It makes sense in light of the other special exception uses around town and their multiple buildings, such as bed and breakfasts. It's consistent with the merger, which forever ties these houses in with the Academy. There can't be a later attempt to sell them off. Ms. Olson-Murphy said this means accessories to the school use, not accessory dwellings. Ms. Davies said being part of the campus limits their use; the only way they're permitted is because of their accessory use as faculty housing. There's no potential for rental or sale in the future. Ms. Montagno asked what would stop them from subdividing them off. Mr. Prior said they would be non-conforming. Mr. Baum said you can merge by right, but you can't subdivide by right. Attorney Leino said it's employee housing, not strictly faculty housing. Mr. Prior said "faculty" was used in their application, but the point is understood. Mr. Baum continued with the criteria: G) The applicant may be required to obtain Planning Board or Town Planning approval; yes, they have to get site plan review. Mr. Prior said we've discussed the potential of going back to technical review. Ms. Montagno asked if we can make our approval conditional on Planning Board approval. Mr. Prior said no. Mr. Baum said we could send them to the Planning Board first. Ms. Davies said we would do this if we had unanswered questions that would be answered by the Planning Board process, and she doesn't know if we do. This is a straightforward application. Mr. Baum continued with the criteria: H) That the use shall not adversely affect abutting or nearby property values; we have the appraiser's opinion letter. He didn't hear any evidence that would go against this. These would be brand-new buildings. He thinks this criteria is met. Ms. Montagno asked how far back is a reasonable timeline to assess. One property was sold in June 2024 and one in August 2025. Is that applicable to current conditions? Ms. Davies said Ms. Waweru's letter points out that these sales occurred before this proposal was made public. There will never be enough market data to exactly match your situation. These sales are recent enough to consider. The analysis doesn't provide a comparison of the differential, but there's already a mix and there will be a different mix after. He didn't prove without a doubt there will be no change, but there's no reason to believe there would be a change.

Mr. Prior paused the proceedings and spoke with the next applicant. Attorney John Kuzinevich said there's a possibility that the Board will not get to our application tonight, so he asked that it be postponed until the next meeting. Mr. Eastman said we would not notify abutters of the rescheduled meeting.

Ms. Davies moved to continue the hearing for the application of Chinburg Properties LLC, Case #26-4, until the next available meeting on August 18. Ms. Olson-Murphy seconded. Mr. Prior, Ms. Olson-Murphy, Ms. Davies, Ms. Montagno, and Mr. Baum voted aye. The motion passed 5-0.

Mr. Baum concluded the special exception criteria for case #26-2 by saying criteria I) and J) are not applicable.

Mr. Baum made a motion to approve the application by Phillips Exeter Academy for a Special Exception to permit duplex dwellings at 35–37 River Street in the R-2 single-family residential district, based on the reasons we’ve articulated. This motion was not seconded.

Mr. Baum made a motion to approve the application by Phillips Exeter Academy for a Special Exception to permit duplex dwellings at 35–37 River Street in the R-2 single-family residential district, conditioned on that the applicant will make all reasonable attempt to retain the mature pines on the lot. Ms. Olson-Murphy seconded.

Ms. Montagno said we discussed asking for additional technical review to address safety concerns brought up during the meeting. Mr. Baum said they already went to technical review once, so we should give more specificity. Mr. Prior said this Board has concerns around turning around, snow removal, parking on the street, and additional signage. Technical review was largely Fire and Police, and he doesn’t think it went far enough.

Mr. Prior moved to amend the motion on the table to include the following: that the application be sent for technical review with particular attention being paid to safety of access, snow removal, parking on the roads themselves, and signage regarding lack of access on the dead-end road. Mr. Baum seconded. Ms. Montagno said it’s not just about snow removal, it’s the issue of the accumulation of snow on the street that occurs throughout the winter and narrows the street. Mr. Prior withdrew his motion.

Mr. Prior moved to amend the motion on the table to require that the applicant return to the Planning Board for technical review, with particular attention being paid to snow removal. The Board objected to that phrasing. Ms. Montagno said it was about signage regarding on-street parking, which is not allowed, and that there is no access to campus.

Ms. Montagno moved to amend the motion on the table to include language to ask the applicant to return to Planning Board for additional technical review to address the impact of the accumulation of snow on the street to abutters’ and residents’ properties; the need for signage on both streets that it is a dead-end street with no access to the campus from those two roads; and to assess the impact of on-street parking. Mr. Baum seconded. Mr. Prior, Ms. Olson-Murphy, Ms. Davies, Ms. Montagno, and Mr. Baum voted aye, and the amendment passed 5-0.

Regarding the amended motion, Mr. Prior, Ms. Olson-Murphy, Ms. Montagno, and Mr. Baum voted aye and Ms. Davies voted nay. The amended motion passed 4-1.

III. New Business

- A. The Zoning Board of Adjustment will continue a public hearing on the application of Chinburg Developers, LLC. The applicant seeks a variance and relief from: (1) Article 4.2, Schedule I which allows one family detached dwellings and (2) from

Article 5.5.3 which limits only one principle building on a lot. The subject property is located in the R-2, Single-Family district. Tax Map Parcel #63-256. ZBA Case # 26-4

This application was not discussed.

IV. Other Business

A. There was no other business discussed.

V. Adjournment

Ms. Davies moved to adjourn. Ms. Olson-Murphy seconded. All were in favor and the meeting was adjourned at 9:44 PM.

Respectfully Submitted,
Joanna Bartell
Recording Secretary