Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment (ZBA)
Meeting Minutes – **September 15, 2025**
Whitcomb Hall, Main Street, Swanzey, NH

CALL TO ORDER:
Chair Adam Mulhern continued the public hearing for the ZBA 25-014 Request for Variance by Barbara Sheehan and Timothy Foster at 6pm at the site at 21 Waters Edge Road. Other members present were Vice Chair Jay Ward, Ann Karasinski, Bryan Rudgers, and Lisa Thorne, and Alternate Jessica Ramsey-Sanchez. Also present were Town Planner, Adam Paquette and Recording Secretary, Susan Ells

ABSENT: Bryan Rudgers, Alternates Pete Delaney, Wayne Lechlider and Joe Parisi

OTHERS PRESENT: Jim and Marcy Jarzabek, Mark Scalera, Stuart DeRidder, Carolyn Spector

SEATING ALTERNATES:
The chair seated Ramsey-Sanchez for Rudgers

DISCUSSION AT SITE VISIT:
Adam Paquette welcomed those that attended and announced the process that would be followed for the hearing.

Chair Mulhern said the reason for the site visit was for the Board to see the layout of the property and the shed in question. He asked the Board for questions. Karasinski asked about the other shed on the property so she could understand why the new shed was not replacing the old shed. She asked where the property line was, and measurements were taken. The group moved to the back of the property where the old shed is; Karasinski said she could understand the hardship that would be involved in trying to move a shed to this location. Paquette explained the ordinance regarding having more than one shed within a setback. Mulhern explained the timeline that led to the variance being requested. Paquette stated that the permit can't be revoked after the 30 days that are allowed for appeal and no appeal was filed. Carolyn Spector said she was a lawyer, and she disagreed with that statement. Paquette said that some towns might have that in their ordinance, but Swanzey does not.

The group returned to the roadside; Ramsey-Sanchez asked about the possibility of moving the shed to the left of the driveway and rotating it 90 degrees which would allow for better road visibility. The shed would need to be placed on some supports in order to be moved further back from the road. There is also a concern of the buried propane tank location. Measurements were taken to demonstrate the location of the shed if it were moved. Ward pointed out to the homeowners that the Board tries to work with the applicant to be less in violation of the ordinance. By moving it to this location, they would not be in violation of the property line with their neighbors, just with the property line at the road. Stuart DeRidder, who lives 2 houses down, stated there are lots of kids, people walking dogs, bicycles, etc. in the area and wondered about the Town's liability if the variance was allowed where the shed is currently and an accident occurred.

The Chair asked for more questions from the Board, then continued the meeting to 7pm at Whitcomb Hall. The meeting was continued at 6:45pm.

Public Hearing continued at 7:09pm at Whitcomb Hall.

REGIONAL IMPACT:
Ward made a motion that there was no regional impact. There was a second by **Karasinski**. All were in favor. With no further discussion, Motion passed.

MINUTES:
The meeting minutes of August 18, 2025 were considered. Paquette had received an email from Jim Jarzabek requesting it be included in the official record of the continuance hearing. Paquette requested the phrase 'along with the Planning Department Head' be struck because he had not attended the visit which was referred to in the email. A motion was made by Ward to approve the minutes with the content of the email included. There was a second made by Karasinski. All were in favor and the m*otion passed.*

PUBLIC HEARING:
ZBA 25-014: Variance (CONTINUED FROM 8/18) – Barbara Sheehan and Timothy Foster have requested a variance under Section IV, Article B.3 of the Town of Swanzey Zoning Ordinance to allow placement of a shed within the front setback. The property is located at 21 Waters Edge Road (Tax Map 103, Lot 52) and is in the Residence District

The chair welcomed all in attendance and explained this was a continuance from the previous meeting and from the site visit. Property abutter Marcy Jarzabek stated that it seems as though this all could have been avoided if the homeowners had been steered in the proper direction. She provided photographs she requested be added to the record.

Paquette stated that he researched the Shoreland protection district ordinance and had included in the packet that the cutoff size is 150 square feet and within 250 feet of the shoreline; this shed is larger so it needs a Shoreland Permit from the State so a condition of approval should include approval of NH DES Shoreland Permit.

Ward asked about the wording in the permit that was granted by the Town; it doesn't state whether it is new or replacement. He asked if a CO was issued; Paquette said a Certificate of Occupancy is not needed for a shed.

The group discussed their observations from the site visit. Mrs. Jarzabek stated that their biggest problem is backing out of their driveway and Mr. Jarzabek stated there is a lot of foot traffic in the area. Ramsey-Sanchez confirmed her biggest concern is the line of sight; Mrs. Jarzabek said their original understanding was that the shed would be oriented the other way which would have solved the problem. Mulhern reminded the group what their actual goal and duty is – that there are specific questions the Board needs to answer. The Board can make suggestions but can't tell the applicants what they must do. Ramsey-Sanchez clarified what is being voted on and asked if the Board can state 'contingent on it being moved to the other side of the driveway' because she felt the applicants seemed

open to moving it. Mulhern confirmed the Board could require contingencies. He asked if there were any other questions from the board.

Karasinski read from the ordinance regarding a second non-conforming shed and stated the new shed would need a variance, which is what the variance is for - both the side property line and the front property line. Paquette clarified they need one variance for the two issues.

Mulhern reviewed the timeline; the shed should not have been placed before receiving this variance, then a building permit would have been requested from the planning board. He stated this is a very unique situation. He asked for consensus of the Board if the homeowners agree to move the shed are they more comfortable voting on the variance.

Mulhern asked the homeowners if they were willing to move the shed; Mr. Foster said they are willing to build the slope up, move it to the left and as far back as possible from the road but keeping it the same orientation. He said they can't rotate it because of the propane tank that is buried there. Mark Scalera said by rotating it he feels they would still have access to the propane tank.

Mr. Foster asked if he needed a permit to create the support for the shed and Mulhern said a permit is needed from the State. Karasinski told him that he has to talk with the State before doing any work due to the Shoreland permit that is needed and Mulhern agreed that the State approval would have to happen before any work is done.

Ramsey-Sanchez asked if this can really be voted on tonight if the location of the propane tank is not known. The site plan measurements should be exact.

Mulhern said the applicants have heard the concerns of their neighbors and the Board – what would they like to propose?

Mr. Foster said even if he agreed to rotate the shed and move it, he'd still have to get variance; Ward agreed but pointed out that by moving it, he would just need the variance for the distance from the road but not from the property line with the abutters, but either way they need a permit from the State.

Jessica explained to the applicants the questions that the Board is required to answer. If any question is voted 'no' then the application fails.

Paquette said we have 30 more days to make a decision, or the applicant can ask for another continuance which can be extended if both parties agree.

Mr. Foster said they want to ask for a continuance so they can talk with more people and make a decision as to what is the best way to move. Mulhern agreed, especially to learn the location of the propane tank.

Mulhern asked for questions from the Board; do they have enough information to make a decision or to grant a continuance. Thorne said she would agree to an extension based on a change to the request. Ramsey-Sanchez agreed; Ward said he would agree if we had a different site plan and the location of the

propane tank, and the site plan would need to be a scaled drawing showing these specifics. Karasinski said it was possible that Mr. Foster might learn about another location if they contacted the State about the removal of the damaged trees. She does agree that giving another 30 days would be a good idea.

Ward made a motion to continue the public hearing with the agreement of the applicants to extend beyond the 90-day limit to the next regular meeting on October 20th. In that meeting, the Board expects a new site plan with measurements of the setbacks and the location of the propane tank. The Board suggests that the applicants contact the State about the Shoreland permit so that they know what to do. Thorne seconded the motion; all in favor. Motion passed.

ZBA 25-015: Special Exception – Shane and Jaime Powell have requested a special exception under Section IV, Article A.2.m of the Town of Swanzey Zoning Ordinance to construct an accessory structure measuring 2,700 square feet and 28.5 feet in height. The property is located at 35 Katie Lane (Tax Map 254, Lot 59) and is in the Rural/Agricultural District.

Chair Mulhern welcomed the visitors to the meeting. He read the application.

Paquette informed the board that the applicants received the shoreland permit ahead of time. He said the Planning staff wanted additional details about erosion control measures and, given the size of the proposed structure, suggested appropriate screening from neighboring parcels should be considered.

Mr. Powell said they are looking to build an accessory structure for dog training – not for boarding; they got the State permit first mainly to be sure of where the building should be located regarding setbacks and septic systems. They believe it is compatible with the neighborhood. There will be no increase in traffic and no commercial traffic. There will be electricity, but no water or septic system to the building. He provided a basic drawing.

Karasinski asked if the structure was for indoor training in the winter, which Mrs. Powell confirmed. The size will help the dogs learn the size of competitions buildings.

Ward asked what the numbers on the drawing refer to and Powell said they are in reference to the photos submitted for the shoreland permit.

Paquette said the Conservation Commission asked about number of animals because of waste concerns. Powell said they have 2 dogs and some chickens but there will be no waste on neighboring property.

Mulhern asked about water; currently there are no plans to have running water available. Their septic is across the property, so it is cost prohibitive to add another system.

Debra Drower – 31 Katie Lane – Abuts the property – requests that the rules and regulations that are in place should be followed, and that a special exception should not be allowed in order to protect the property values. They are certain the structure would adversely affect the value of their property and those of their neighbors.

Sean Drower – 32 Katie Lane – said it is all well and good that they have state approval, but they are proposing a very large building that will be 20 feet from their driveway and 20 feet tall which is not in keeping with the neighborhood. There are no barn structures in the neighborhood. What if they change the plan and become a business?

Mulhearn said that is not what is being requested; Ward said a special exception is for an allowed use; it is not against the rules/law. The applicant has to get the approval if they wish to change the use.

Mr. Drower read from the application regarding 'injurious, obnoxious or offensive'; Ward there are questions the Board must answer before they can grant the exception.

Mulhern said there are definitions the board has to abide by, and he read the definition "*the terms 'injurious, obnoxious, or offensive' refer to whether a proposed use might be demonstrated to be a potential nuisance to the surrounding neighborhood due to traffic, unsanitary conditions, excessive noise, vibration, vapors, toxic emissions and odors. Evidence that a proposed special exception use may exhibit one or more of these conditions could justify a ZBA to conclude the proposed use does not merit the grant of a special exception because the use would be 'injurious, obnoxious, or offensive'."*

Mulhern said it is a valid question as to where the building is on the property – is there any other place it can go. Powell stated that the Northwest corner is well within the shoreland protection so it wouldn't be granted by the State and it would be close to the leach field. They selected the Southeast corner because of the culvert under the driveway so they don't have to redirect the culvert. Catch basins are on the left side of the driveway.

Stephen Russell - 39 Katie Lane – he is in support of the plan of the building which is nestled in the woods. There are no windows so noise will not permeate. He feels it will increase the property prices because it is an attractive design and is like other structures in the town.

Weldon Mattson – 98 Katie Lane –asked what the construction is and was told it will be stick built gambrel style with board and batten exterior.

Karasinski asked about the consideration to screen from the neighbors' view. Powell said it is very well screened – there is 20 feet to the property line and trees are there and they would be cutting as few as possible.

Drower said that he and Powell had walked the property and that the east corner is turned into the tree line buffer which would require removing the trees from the property.

Ramsey-Sanchez asked about the height – Shane said it is two stories. She asked Mulhern if they should be concerned about them changing the use; Mulhern said they would need to apply for a new permit if they changed the purpose.

Mulhern said a question has been brought up by the abutters regarding reducing the value of the property. Powell said there are several things they have done to minimize the impact such as installing no windows on the neighbor's side and placing it as far from the boundary as possible.

Drower said they are asking for the exception because of the size and it is going to be esthetically unattractive.

Paquette stated the provision was adopted in 2008; prior to that the homeowner could have built it without the special exception.

Mattson questioned the size and asked if apartments could be put on the second floor. They could build one, according to Paquette. Mattson said he would not want to look at it if he lived where the Drumers live.

Karasinski said it is the size of 2 tennis courts. Is there opportunity for screening from the neighbors' view? Mulhern said the Board could recommend more screening like a berm. Powell said it is dense, especially on the edges. They have not explored any other screening. Ward said no matter what they added, it would not be 20 feet high. He said assessed value would increase which would also increase the assessed value of the neighborhood.

Karasinski asked about color; Powell said they have not determined color. It is wood exterior so either stained or painted, most likely stained. Karasinski said she thought muted colors would be better.

Jessica asked for clarification of the Rural/Agricultural District.

Thorne asked why it needs to be so tall; Powell said a shorter metal barn would look worse and not add to the agricultural charm – would look more commercial. He said what they are planning would be more esthetically pleasing.

Mulhern asked for additional comments:

Weldon Mattson asked if they build it and then decide to sell and move; could the new owner put in a different business. Mulhern said it is a non-business use; if a business tried to go in, there would need to be an approval. Mattson asked if he decided to build a similar building would this set a precedent; Mulhern said they would go through the same process.

Drower said every time he drives into his driveway he will see this building. He feels it is too large.

Powell asked him to consider the size of other structures in the area; he feels they are in 50th percentile. Mulhern said that is one of the questions the Board must answer.

Ward reiterated that this is residential use.

Annette Baumgartner – 108 Katie Lane - abutter – is there any place in the plan to replant the trees to buffer the neighbors. Powell said they had not outlined any additional buffers. Mulhern said the Board could make a requirement.

Mulhern closed the public hearing at 9:17pm. He described the process. He asked the board for any discussion.

Ann suggested evergreens could be required to be added; Mulhern said in the past the Board has suggested requiring a living barrier but not specify species. Ward reminded about the definition to be used regarding injurious, obnoxious, or offensive and Mulhern reread the definition.

Ramsey-Sanchez wondered about requiring a site visit. Karasinski said she was within her rights to request it. Mulhern said it should have something to do with one of the questions and pointed out the building is not there, so what would be gained by visiting? After some discussion, the site visit was not requested.

The Board deliberated the checklist for granting a special exception.

1. **The proposed use is similar to one or more of the uses already authorized in the district and is an appropriate location for such a use.**

- Thorne – yes – buildings already – personal use
- Karasinski – yes – other a dozen that come to mind
- Ramsey-Sanchez – yes –meets the definition of district of rural/ag – residential use
- Ward – yes – agree it is similar to other uses – meets set backs.
- Mulhearn – yes – residential use – similar to other uses

2. **Such approval would not reduce the value of any property within the district, not otherwise injurious, obnoxious, or offensive to the neighborhood.**

- Karasinski – yes - haven't heard any testimony to the contrary
- Ramsey-Sanchez – same as Karasinski – meets the strict legal definition; not allowed to go by subjective opinions.
- Ward – yes – won't reduce value. Sympathizes with abutters.
- Thorne – yes – narrow definition
- Mulhearn – yes – the use is what is at question – not the look.

3. **There will be no nuisance or serious hazard to vehicles or pedestrians.**

- Ramsey-Sanchez – yes – there is no evidence – not close to road. The use won't cause hazards.
- Ward – Yes – no use to cause serious hazard – use is confined to the property
- Thorne – use – agrees with Ward
- Karasinski – yes – agree with Ward
- Mulhearn – yes – agrees with Ward

4. **Adequate and appropriate facilities will be provided for the proper operations of the proposed use.**

- Ward -Yes – they have given adequate thought. Won't need water, restroom.
- Thorne – yes – agree with Ward.
- Karasinski – yes – showed adequate planning and by getting State approval.
- Ramsey-Sanchez – yes – agree with the others

- Mulhearn – yes – with 2 caveats – 1) erosion control should be considered, and 2) increase as much visual setback as possible from the property line which would be beneficial.

A motion was made by Karasinski to grant the ZBA 25-015 Special Exception with the recommendation to continue working with the state requirement for erosion control and recommend to maintain the natural tree line to the best of their ability, Ward seconded – all were in favor and the motion passed.

OTHER DISCUSSIONS
None

ADJOURNMENT
A motion to adjourn was made by Thorne and seconded by Karasinski and all were in favor. The motion passed. Adjournment occurred at 9:46p.m.

Respectfully Submitted,

Susan Ells, Recording Secretary

Approved on October 20, 2025