TOWN OF SWANZEY

OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT

Phone: 603-352-7411 ext. 108
Email: planner@swanzeynh.gov
Web: www.swanzeynh.gov
Address: 620 Old Homestead Hwy

Swanzey Zoning Board of Adjustment
Meeting Agenda for January 26, 2026
7:00 p.m.

The regular meeting of the Swanzey Zoning Board of Adjustment will be held on Monday, January 26, 2026 at 7:00 p.m. at Whitcomb Hall, 17 Main Street, Swanzey. The meeting will also be live streamed on the Town of Swanzey's Facebook and YouTube pages. More information on public access to the meeting is available on the Town's website at: www.swanzeynh.gov.

1) Call to Order

2) Approval of Minutes

    a. December 15, 2025

3) Public Hearings

    a. **ZBA 25-019: Special Exception –** Terence Mark has requested a Special Exception under Section IV, Article B.2.d of the Zoning Ordinance. The request seeks permission to construct an accessory structure measuring 3,360 square feet. The property is identified as Tax Map 233, Lot 37 and is in the Residence District.

4) Other Business

    a. Vacancies for 2026

    b. Other business as required

5) Adjournment

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

Note: Draft Minutes are subject to review, correction, and approval by the Board. Review and approval of Minutes generally takes place at the next regularly scheduled meeting of the Board.

CALL TO ORDER:
Chair Adam Mulhearn called to order the meeting at Whitcomb Hall at 7:00 p.m. Other members present were Vice Chair Jay Ward, Ann Karasinski, Bryan Rudgers and Alternates Wayne Lechlider and Joe Parisi. Also present were Town Planner Adam Paquette and Recording Secretary Susan Ells.

ABSENT: Pete Delaney, Jessica Ramsey-Sanchez and Lisa Thorne.

OTHERS PRESENT:
George Mayo, David Johnson

SEATING ALTERNATES:
The chair seated Wayne Lechlider for Lisa Thorne

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

MINUTES:
The meeting minutes of October 20, 2025 were considered. Jay Ward mentioned a misspelling of Ann Karasinski's name. Karasinski made a motion to approve the minutes as amended. There was a second made by Lechlider. All were in favor and the m*otion passed.*

PUBLIC HEARING:
ZBA 25-019: Variance – George Mayo has requested a variance under Section IV, Article B.3 of the Zoning Ordinance to allow a shed to encroach into the front setback at 65 Wilson Pond Road. The property is identified as Tax Map 106, Lot 20 and is in the Residence District.

Parisi asked to make a point of order regarding Lisa Thorne's vacancy. She has submitted her resignation because she is selling her house and moving out of Swanzey. Parisi believes there is an RSA that states an alternate member cannot be seated for a member in the case of a vacancy, only for an absence. Chair Mulhearn said he was not aware of the RSA and said that in the past the alternates have filled in until the next election. Paquette will verify the RSA, but for this meeting, Lisa Thorne is still a resident, and her letter of resignation has not been accepted, so she will be considered absent from this meeting.

Paquette explained that the applicants are seeking approval to locate an 80 square foot shed within the required 30-foot front setback. The structure is positioned approximately 13 feet from the front property line, resulting in a 17-foot encroachment. It measures approximately 11 feet from the side property line, which is permitted per Section III, Article C.3. The shed was installed without first obtaining a building permit.

Paquette would prefer the shed be relocated in order to comply with regulations and avoid the need for a variance, but he has not personally viewed the property. The Town has had no communication from the abutters regarding the shed. The reason they are requesting a variance is because the building inspector informed the owner that there was a complaint and that they need a variance.

George Mayo is the trustee of the trust that owns the property where David Johnson is living and is representing him at this meeting.

The group discussed alternate locations, such as behind the house, but that would be closer to the shoreline. While it might be within the setbacks, it would be expensive and there is a concern of rising water levels encroaching on the location and potentially causing damage to the tools and equipment being stored there. It would also be difficult for David to get his tools and equipment to his truck because he has difficulty walking, so he would need to drive his truck down the slope, which would damage the land and potentially cause problems for the water. Mayo stated the terrain slopes 2-3 feet toward the shoreline and if the shed had to be moved, it would need a foundation to make it level and that would require a building permit. Putting it on the side of the house would require the homeowner to relocate the wood for his heating system and would cause other concerns such as snow removal.

Chair Mulhearn explained that the applicant can request an extension, or request the Board move forward to a vote; if the variance fails, this case would be closed, but the applicants could still consider moving the shed toward the shoreline. Mayo requested they move to a vote.

Chair Mulhearn closed the public hearing.

The Board deliberated the checklist for granting a variance.

1. **Could the variance be granted without being contrary to the public interest?**

- Lechlider – Yes – they have identified no detriment to the public.
- Rudgers – Yes -feels the same
- Ward – Yes - agrees
- Karasinski – Yes – contemplated alternatives which are not better locations.
- Mulhearn – Yes – feels it poses potentially less damage to the water.

2. **Would the spirit of the ordinance be observed if the variance were granted?**

- Rudgers - Yes
- Ward – No – the spirit of the ordinance is the setback.
- Karasinski – No – that is what the ordinance specified.

- Lechlider -Yes – the spirit of the ordinance is being observed.
- Mulhearn – Yes – spirit of the ordinance also protects the water.

3. Would granting the variance do substantial justice?

- Ward – Yes – homeowner needs access to his tools.
- Karasinski – Yes - keeping the tools in a shed instead of in the yard is more esthetically pleasing.
- Lechlider - Yes
- Rudgers – Yes – the properties on the lake were not intended for year-round living; at that time, no land was planned for sheds.
- Mulhearn – Yes

4. Could the variance be granted without diminishing surrounding property values?

- Karasinski – Yes – the shed will improve the appearance of the property.
- Lechlider – Yes, agrees.
- Rudgers – Yes - agrees.
- Ward – Yes - agrees.
- Mulhearn – Yes - agrees.

5. Do special conditions of the property exist that distinguish it from other properties in the area?

- Lechlider – Yes – discussed slope, regulations near the shoreline.
- Rudgers – Yes – evidence shows there is not much alternative.
- Ward – Yes – all properties have these limitations that distinguish them from others in town.
- Karasinski – Yes – the Town had realigned the street which removed some footage from the property line.
- Mulhearn – Yes – with caveat –that when buying the property, the owner should learn the conditions and restrictions.

A.i. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?

- Rudgers – Yes, same rationale, variety of setbacks within Town,
- Ward – Yes – Wilson Pond properties need the accessory dwellings.
- Karasinski – Yes – agree with all the reasons.
- Lechlider – Yes - agrees.
- Mulhearn – Yes, agrees, but the Board does need to look at each application to determine if it is within the spirit to prevent overburdening the area

A.ii. Is the proposed use a reasonable one?

- Ward - Yes

- Karasinski - Yes
- Lechlider - Yes
- Rudgers - Yes
- Mulhearn - Yes

If the criteria in subparagraph A.i. and A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance in necessary to enable a reasonable use of the property:

- Mulhearn -
- Ward -
- Karasinski -
- Rudgers -
- Lechlider -

Lechlider made a motion to grant variance 25-019, Karasinski seconded – all were in favor and the motion passed.

OTHER DISCUSSIONS

The board discussed the schedule of upcoming meetings. Paquette clarified that the Board could appoint an alternate to fill the vacancy until the next election.

ADJOURNMENT

Rudgers made a motion to adjourn which was seconded by Ward and all were in favor. The motion passed. Adjournment occurred at 8:25pm.

Respectfully Submitted,

Susan Ells, Recording Secretary

Approved on

DRAFT

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OFFICE OF PLANNING AND ECONOMIC DEVELOPMENT

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Memorandum – Office of Planning & Economic Development

TO: Zoning Board of Adjustment

FROM: Adam Paquette, Town Planner

DATE: January 16, 2026

RE: ZBA 26-001 – Special Exception – 100 Holbrook Ave

Background:

Terence Mark has requested a Variance pursuant to Section IV, Article B.2.d of the Town of Swanzey Zoning Ordinance to construct an accessory structure measuring 3,360 square feet at 100 Holbrook Ave. The subject property is shown at Tax Map 233, Lot 37 and is located in the Residence District. Notice of Public Hearing was mailed to abutters on January 15 and notice was published in the Keene Sentinel on January 24.

Discussion:

The applicant requests a Special Exception from to Section IV, Article B.2.d of the Zoning Ordinance. That section states:

> **2.** In addition to the aforementioned permitted uses, the following are permitted after the issuance of a Special Exception by the Board of Adjustment: (Section IV.B.2. Amended March 9, 1999)
>
> **a.** Multi-family dwelling(s). The density requirement for a multi-family dwelling(s) shall be one acre for the first unit and one half (1/2) acre for each additional unit, unless connected to public sewer. The maximum density permitted for a multi-family dwelling(s) connected to public sewer shall be three (3) units per acre; (Amended March 14, 2000; Amended March 8, 2022)
>
> **b.** Two-family dwelling. The density requirement for a two-family dwelling shall be one and one-half (1-1/2) acres, unless connected to public sewer;
>
> **c.** Daycare facility; educational, governmental, or religious facility; rooming or a boarding house; bed and breakfast facility.
>
> **d.** Accessory building having a footprint of 1000 s.f. or greater or 25 feet or more in height. (Adopted March 11, 2008)

The subject parcel consists of approximately 3 acres and has roughly 275 feet of frontage along Holbrook Avenue. Access to the proposed accessory structure would be provided via the existing curb cut and driveway. As for height, the submitted plan does not indicate the height of the

proposed structure, and architectural details are limited to a basic rendering, with no elevations or design specifications provided.

The overall size of the proposed structure raises concerns regarding stormwater management, particularly with respect to impervious surface coverage and potential impacts to on-site drainage. Additionally, the scale of the structure calls into question the number and type of vehicles intended to be stored within it, as well as whether the structure could facilitate uses beyond what is customarily considered accessory. Further clarification is needed to ensure the proposed structure complies with zoning requirements and does not support commercial or business uses.

Department Head and Staff Review:

Department Heads were notified of the application on January 15. Comments are provided below:

Planning Staff Comments:

1. More detailed architectural drawings are needed prior to building permits.
2. More clarification is needed regarding the size of the structure.
    a. Are there intended business uses for the future?
    b. Number and type of vehicles being stored.
    c. Other uses for the space
3. This is a large lot, but staff is concerned the size of the structure could impede stormwater management / drainage.
4. The Conservation Commission has not yet provided comments on the proposed project. If the application is approved, staff recommends a condition requiring Conservation Commission review and comment prior to the issuance of a building permit. Any substantive concerns identified by the Conservation Commission may necessitate a second hearing before the ZBA.

Attachments:

A. Application
B. Tax Map

RECEIVED
JAN 05 2026
TOWN OF SWANZEY

APPLICATION FOR SPECIAL EXCEPTION
TOWN OF SWANZEY (Revised 8/22)

MAP: ~~58-63~~ 233

LOT: ~~2~~ 37

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:
Terence S Mark

MAILING ADDRESS OF APPLICANT:
100 Holbrook Ave
Swanzey NH 03446

Contact phone number: 603 209 6815

OWNER OF PROPERTY:
(If same as applicant, write "same")
Same

MAILING ADDRESS OF OWNER:
(If same as applicant, write "same")
Same

LOCATION OF PROPERTY (Give Zoning District in which located & current street address)
100 Holbrook Ave
Swanzey NH 03446

FEES:

- Application fee: $75
- Current rates for Keene Sentinel Legal Notices
- $10/abutter certified mail notice

Fees will be billed and **must** be paid prior to public hearing.

1. ☑ **SITE PLAN** – The site plan need not be done professionally, but **must** be to scale; the scale should be appropriate for the size of the project & the plan must be readable. Plans must indicate the size of the lot in acres or square feet, show the placement of all **existing** and **proposed** buildings on the lot and include setbacks required by the zoning ordinance. The plan must include a written and visual depiction of the scale used.

2. ☑ If applicable, indicate on the Site Plan the location of:

- Septic system and/or leach field ✓
- Water supply ✓
- Curb cuts
- Parking area (and size of parking spaces)
- Waterways
- Wetland areas
- Tree lines ✓
- Drainage ways
- Loading docks
- Underground tank locations ✓
- Impervious surfaces

It is the applicant's responsibility for including all information on the plan that is pertinent to their application and proposed project.

3. ☐ Attach completed and up-to-date listing of ALL abutters with addresses.

4. ☑ Provide a brief description of the project/request.

A Special Exception is requested from the terms of Section 4, Article B. 2. d of the Zoning Ordinance of the Town of Swanzey.

FACTS IN SUPPORT OF GRANTING THE 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 because:

Looking for storage of vehicles

2. Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious, or offensive to the neighborhood because:

✓ Increase value of said property and not affect abutters

3. There will be no nuisance or serious hazard to vehicle or pedestrians because:

Not near anyone's traffic

4. Adequate and appropriate facilities will be provided for the proper operations of the proposed use because: Building will have 4' frost walls - insulation and heat no underground utilities interfere with placement and building will meet local requirements

Signature of Applicant

Date: 1/4/26

Signature of Property Owner

Date: 1/4/26

THIS SPECIAL EXCEPTION IS HEREBY:

☐ **GRANTED** ☐ **DENIED**

by the Swanzey Zoning Board of Adjustment. The following are reasons and/or conditions:

CHECKLIST FOR GRANTING A SPECIAL EXCEPTION
(for use by Swanzey Zoning Board of Adjustment)

The Board of Adjustment shall have the power to hear and decide Special Exceptions to the terms of the Zoning Ordinance, and in doing so, may grant approval in appropriate cases and subject to appropriate conditions and safeguards for the protection of the public health, safety, and welfare. Special Exceptions may be approved if the Board finds in the affirmative that:

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

_____ Yes _____ No

2. Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious, or offensive to the neighborhood

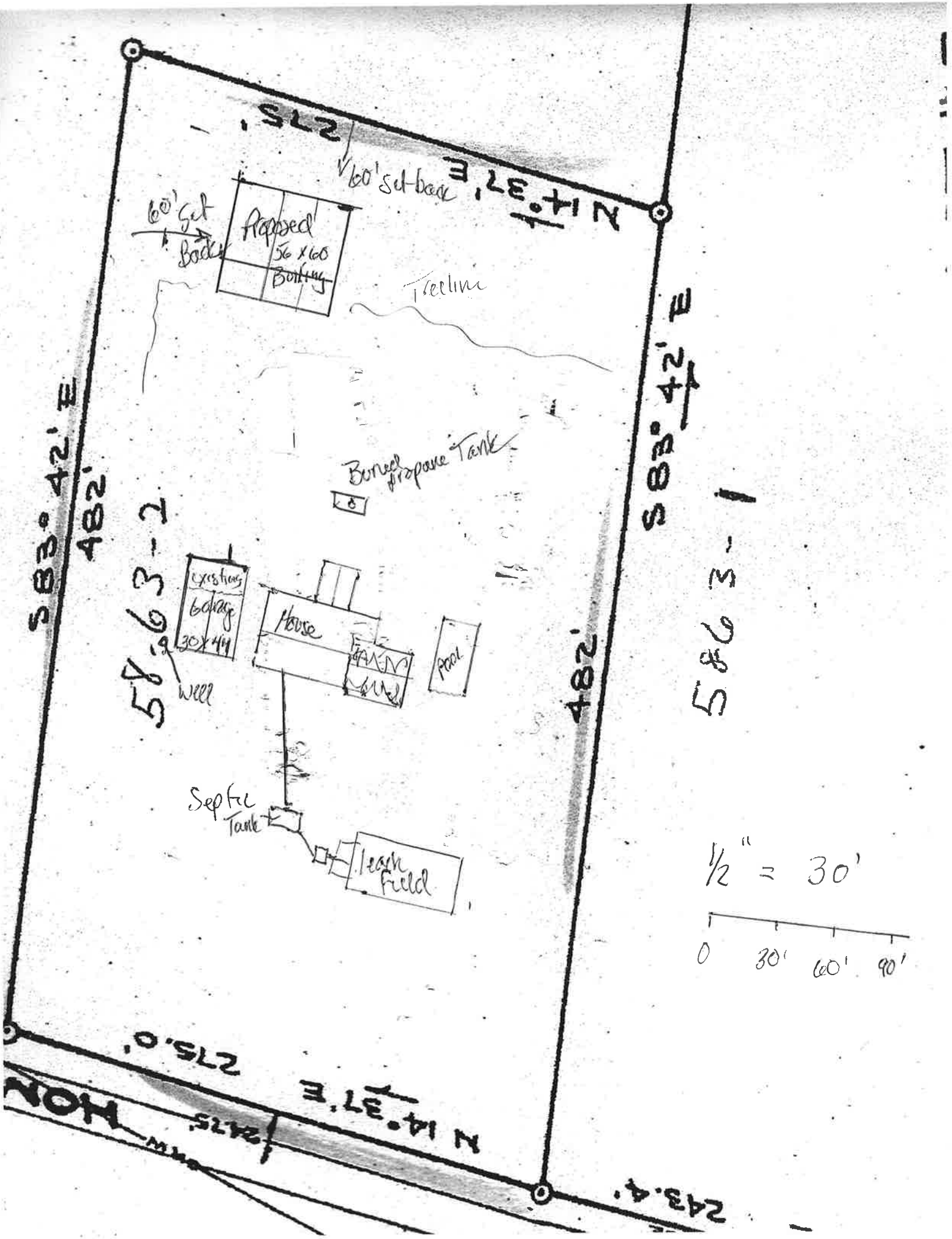
_____ Yes _____ No

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

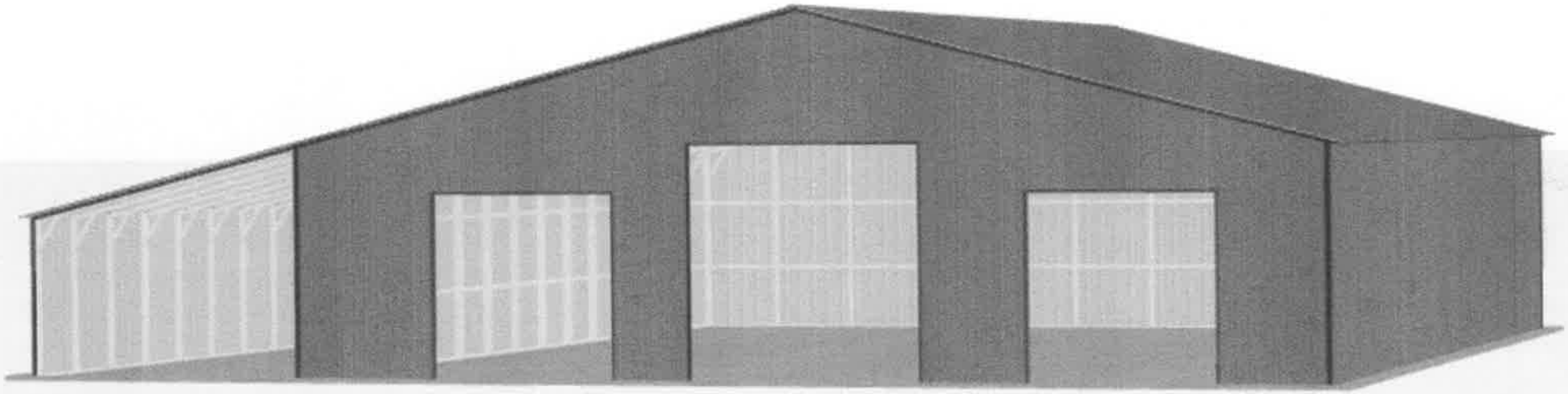
_____ Yes _____ No

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

_____ Yes _____ No


60' Set Back
Proposed 56 x 60 Building
60' Set Back
Treeline
Buried Propane Tank
Existing Garage 30 x 44
House
Pool
Well
Septic Tank
Leach Field
S83° 42' E
482'
S83° 42' E
482'
S8° 16' 37" W
N 14° 37' E
243.4'
1/2" = 30'
0
30'
60'
90'

115 MPH / 90 psi





THIS MAP IS FOR ASSESSMENT PURPOSES. IT IS NOT VALID FOR LEGAL DESCRIPTION OR CONVEYANCE.

THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM, NAD 83.

PHOTOGRAPHY DATE: APRIL 2021

COMPLETION DATE: DECEMBER 31, 2023

PRODUCED IN 2023 BY

CAI Technologies
Precision Mapping. Geospatial Solutions
11 Pleasant Street, Littleton, NH 03561
800.322.4540 • www.cai-tech.com

LEGEND

AREA SURVEYED ..... Ac
AREA CALCULATED ..... AcC
RECORD DIMENSION ..... 100'
SCALED DIMENSION ..... 100'S
MATCH LINE 56
WATER ..... -W-
BUILDING
EXEMPT PROPERTY (E)
SUBDIVISION LOT NO. (2)
RIGHT OF WAY/ACCESS 66'W
COMMON OWNERSHIP
WETLANDS

FEET SCALE: 1" = 200'
200 100 0 200 400 600
METERS 50 25 0 50 100 150

REVISED TO: APRIL 1, 2023

PROPERTY MAPS

SWANZEY

NEW HAMPSHIRE

INDEX DIAGRAM

MAP NO. 233

RULES OF PROCEDURE
SWANZEY ZONING BOARD OF ADJUSTMENT

These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676:1, and the zoning ordinance and map of the Town of Swanzey.

OFFICERS

1. The Chair shall be a regular member elected annually by a majority vote of the Board (including alternate members) in the month of March. The Chair shall preside over all meetings and hearings, appoint such committees as directed by the Board and shall affix their signature in the name of the Board.

2. The Vice-Chair shall be a regular member elected annually by a majority vote of the Board (including alternate members) in the month of March. The Vice-Chair shall preside in absence of the Chair and shall have the full powers of the Chair on matters which come before the Board during the absence of the Chair.

3. All officers shall serve for one year and shall be eligible for re-election.

ALTERNATE MEMBERS

1. Up to five alternate members shall be appointed by the elected Zoning Board of Adjustment, to serve whenever a regular member of the board is unable to fulfill their responsibilities. Alternate members shall serve a term of three years in accordance with RSA 673:6. When alternate member vacancies are posted, registered Swanzey voters seeking to be appointed as an alternate member shall submit their letter of interest to the Town Planner or designee. The voting on the appointment of alternate members shall occur at a regular meeting of the Board.

2. Alternate members should attend all meetings to familiarize themselves with the workings of the board to stand ready to serve whenever a regular member of the board is unable to fulfill their responsibilities.

3. At meetings of the ZBA, alternates who are not activated to fill the seat of an absent or recused member or who have not been appointed by the chair to temporarily fill the unexpired term of a vacancy may

participate with the board in a limited capacity. During a public hearing, alternates may sit at the table with the regular members and may view documents, listen to testimony, ask questions and interact with other board members, the applicant, abutters and the public.

4. During deliberations, alternate members may participate in the discussions. Alternates shall not be allowed to make motions, second motions, or vote unless seated in the place of a regular member.

5. During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate and participate in making motions and voting.

6. At all times, the chair shall fully inform the public on the status of any alternate present and identify the members who shall be voting on the application.

CLERK

The Clerk, who shall not be a Board member, shall maintain a record of all meetings, transactions and decisions of the Board, and perform such other duties as the Board may direct. The Clerk is appointed by the Board of Selectmen.

MEETINGS

1. Regular Board of Adjustment meetings are held on the third Monday of every month at Whitcomb Hall, 17 Main Street in West Swanzey at 7:00 p.m., except in January and February, when the meeting will be held on the second Monday. Public Notice must be provided as required by RSA Chapter 91-A. If an emergency situation arises wherein action is required prior to the next scheduled meeting, the necessity for calling a special meeting will be determined by the Chair or in their absence, the Vice-Chair.

2. A quorum for all meetings of the Board shall be three members, including alternates sitting in the place of members as stated in RSA 673:11. RSA 674:33,III provides that "... the concurring vote of 3 members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass." For this reason, the Board will make every effort to ensure that a full five-member Board is present for the consideration of any appeal.

a. In the event it is not feasible to constitute a 5-member Board, the Chair shall, prior to the commencement of any proceeding, allow the applicant the opportunity to elect to either proceed with the Board then sitting, or postpone the hearing. If the applicant elects to postpone the hearing, the Board will announce the time, date, and location of the continued hearing. Should the applicant choose to proceed with less than five members present, that shall not solely constitute grounds for a rehearing should the application fail.

b. If any regular Board member is absent from any meeting or hearing, or disqualifies themself from sitting on a particular case, the Chair shall designate one of the alternate members to sit in the place of the absent or disqualified member, and such alternate shall be in all respects a full member of the Board while so sitting. Alternates appointed in absence of a regular member, and participating in a public hearing on an appeal, shall retain the seat of the regular member when Board discussions and decisions pertaining to that appeal take place.

c. If the Chair or Vice-Chair are both unable to serve due to absence or disqualification, the remaining Board members shall elect an alternate Chair to serve until the Chair or Vice-Chair can resume the duties of the Chair.

3. If any member finds it necessary to disqualify themself from sitting in a particular case, as provided in RSA 673:14, they shall notify the Chair as soon as possible so that an alternate may be requested to sit in their place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the Board may request the Board to vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding.

a. To assist a member in determining whether or not they should recuse themselves, Board members should review the following questions to determine qualification. These questions include those that are asked of potential jurors to determine qualification (RSA 500-A:12). This list is not meant to be exhaustive and Board members should consider other potential conflicts of issue that may arise. In reviewing each case, Board members should consider whether they:

i. Expect to gain or lose upon the disposition of the case;
ii. Are related to either interested party;
iii. Have advised or assisted the applicant or any interested party;

iv. Have directly or indirectly given an opinion or formed an opinion;

v. Are employed by or employ any party in the case;

vi. Are prejudiced to any degree regarding the case;

vii. Are an abutter to the property for which an appeal has been submitted;

b. The disqualification shall be announced by either the Chair or the member disqualifying themself before the beginning of the public hearing on the case. The disqualified member shall absent themself from the Board table during the public hearing and during all deliberation on the case.

4. Ex Parte Communications:

i. Board members shall avoid ex parte communications with the applicant or any person interested in the application. In the event that ex parte contact occurs, Board members shall disclose the nature and date of the communication at the beginning of the public hearing.

ii. Board members shall not seek input or advice from any source regarding the application outside of the public hearing process.

iii. Applicants and interested parties should direct questions regarding the process to the Town Planner or designee. If an applicant or interested party contacts a Board member, the member should refer that person to the Town Planner or designee, or advise the person to submit information to the Board in writing.

5. The order of business for regular meetings shall be as follows:

a. Call to order
b. Roll call by the clerk.
c. Minutes of previous meeting.
d. Public hearings.
e. Unfinished business.
f. New business.
g. Communications and miscellaneous.
h. Other business
i. Adjournment.

6. It shall be the policy of the Zoning Board of Adjustment not to commence new public hearings after 9:00 p.m. This policy may be temporarily suspended upon the majority vote of the Board members present (including alternates).

a. Meetings will adjourn at 10:00 p.m. This policy may be temporarily suspended upon the majority vote of the Board members present (including alternates).

APPLICATIONS/DECISIONS

1. Applications.

a. Each application for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Town Planner or designee who shall record the date of receipt.

b. Appeals from an administrative decision taken under RSA 676:5 shall be filed within thirty (30) days of the decision. The date the decision was rendered shall not be counted in the 30 day period. If the 30th day falls on a Saturday, Sunday or Town holiday, the appeal shall be filed no later than the last regular business day preceding the Saturday, Sunday or Town holiday.

c. No application to the Zoning Board of Adjustment will be processed unless it is received by the Town Planner or designee at least 14 days before the date of the meeting.

d. If the application refers to any case law, statute, or administrative rule, copies of the same must be affixed to the application at the time of submission.

e. A completed application shall include all fees for notices and any other fees assessed by the Board under the provisions of RSA 675:5, IV

2. Public Notice.

a. Public Notice of public hearings on each application shall be given in the Keene Sentinel and shall be posted at the West Swanzey and Swanzey Post Offices, the Town Office and the Town's website not less than five (5) days before the date fixed for the hearing. Notice shall include the name of the applicant, description of property to include tax map identification, action desired by the applicant, provisions of the

zoning ordinance concerned, the type of appeal being made and the date, time and place of the hearing.

b. Personal notice shall be made by certified mail to the applicant and all abutters not less than five (5) days before the date of the hearing.

c. Fees for certified notices and publication in the Keene Sentinel must be paid by the applicant prior to the public hearing. The Board will not hear the application if fees have not been paid prior to the public hearing. Failure to pay such costs shall constitute valid grounds for the Board to terminate further consideration and to deny appeal without hearing.

3. Public Hearing. The conduct of public hearings shall be governed by the following rules:

a. The Chair shall call the hearing in session and ask for the Town Planner or designee's report on the first case.

b. The Town Planner or designee shall read the notice of application and report on how public notice and personal notice were given. The Town Planner or designee will disclose the location and description of the subject property by use of tax maps, slides or photographs.

c. Members of the Board may ask questions at any point in the testimony.

d. Each person who appears shall be required to state their name and address and indicate whether they are a party to the case or an agent or counsel of any party of the case.

e. The Chair shall control the conduct of the hearing and may impose reasonable limitations upon the number of times and the length of time any person may speak so long as everyone with a legitimate interest is given a reasonable opportunity to state their views and present evidence.

f. Anyone who wants to ask a question regarding the case must do so through the Chair.

g. The applicant shall be called to present their appeal and those appearing in favor of it will be allowed to speak.

h. Those in opposition to the appeal shall be allowed to speak.

i. The applicant and those in favor of the appeal shall be allowed to speak in rebuttal.

j. Those in opposition to the appeal shall be allowed to speak in rebuttal.

k. Upon filing any application, the owner of the affected land implicitly consents to a site visit conducted by the Board (should the Board determine that a site visit is necessary). The site visit shall be conducted as part of the public hearing and shall be open to all interested parties. Date and time of any site visit will be announced during the public hearing. Additional written notice of any site visit to the applicant, abutters and the public shall not be required.

l. The Board of Adjustment will hear with interest any evidence that pertains to the facts of the case or how the facts relate to the provisions of the town zoning ordinance and state zoning law.

m. After all interested parties have been given a reasonable opportunity to present their evidence, the Chair shall present a summary setting forth the facts of the case and the claims made for each side. Opportunity shall be given for correction from the floor.

n. The Chair shall declare the public hearing closed. After the close of the public hearing, the Board shall discuss and act upon the application. The public shall not be permitted to participate in the Board's deliberations, but the Chair may direct questions to members of the public and receive answers during the Board's deliberations. Except as provided in the right-to-know law (RSA 91-A), the deliberations of the Board shall be held in open meeting where the public can hear.

4. Decision. The Board shall strive to decide all cases within thirty-five (35) days after the close of the public hearing. The Board shall issue a final written decision which either approves or disapproves the application. Whenever the Board votes to approve or disapprove an application or denies a motion for rehearing, the minutes of the meeting at which such vote is taken, including the written decision containing the reasons therefore, shall be placed on file in the Land Use Office and shall be made available for public inspection in accordance with RSA 676:3.

5. Voting. Should a motion result in a tie vote or not receive the necessary three (3) votes to decide in favor of the applicant, the opposite of the failed motion does not automatically prevail. The Board must put forth a new motion to affirmatively set forth a decision and it must receive the necessary three (3) votes.

REQUEST FOR REHEARING

1. If possible, the Chair will seat those members who were seated during the underlying hearing. Any member, whether they were present or not present during the underlying hearing, can be seated upon recitation that they have reviewed the underlying application, minutes, the Request for Rehearing and any other materials germane to the application.

2. The Chair shall inform the Board members, the applicant and the audience that while this is a public meeting, it is not a public hearing. Comments from the applicant, their agent and the public will not be permitted.

3. The Chair shall ask if any Board members have any questions or need clarification on any points raised in the Request for Rehearing. The Board will not review the Request for Rehearing point by point, unless so desired by the Board.

4. Should Board members have specific questions, they may address them to the appropriate party through the Chair.

5. If the Request for Rehearing is granted, it shall be the responsibility of the party who requested the rehearing to pay the applicable fees for certified notices and publication in the Keene Sentinel. The fees must be paid by the party who requested the rehearing prior to the public hearing. The Board will not hear the application if fees have not been paid prior to the public hearing. Failure to pay such costs shall constitute valid grounds for the Board to terminate further consideration and to deny appeal without hearing.

MISCELLANEOUS

1. Records. The records of the Board shall be kept by the Land Use Office and made available for public inspection at the Swanzey Town Office in accordance with statutory requirements.

2. Joint Meetings and Hearings. Joint meetings with other town boards shall be held under the provisions of 676:2.

3. Amendments. These rules of procedure may be amended by a majority vote of the Board members present (including alternates) provided that such amendment is discussed at a meeting of the Zoning Board of Adjustment, and following said discussion the text of the proposed amendment is posted in at least three public places in Town at least ten (10) days preceding the meeting when the vote is to be taken. At a minimum, the Board shall review the rules of procedure every three (3) years to determine if any amendments are necessary.

4. Waivers. Any non-statutory portion of these rules of procedure may be waived in such cases where, upon the vote of the Board, strict conformity would pose a practical difficulty to the applicant and a waiver would not be contrary to the spirit and intent of the rules.

We hereby attest that this is a true copy of the Rules of Procedure as amended and adopted by the Swanzey Board of Adjustment on August 15, 2022.