

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
Tuesday, May 12, 2026

A public hearing of the Zoning Board of Adjustment was held on Tuesday, May 12, 2026 at 6:30 PM, at City Hall.

Jay Minkarah, Chair, asked for a Roll Call:

Jay Minkarah, Chair
Josh Nehiley, Vice Chair
JP Boucher
Rob Shaw
Steve Lionel
Joseph Patry - Alternate

Carter Falk, Deputy Planning Manager

Mr. Minkarah explained the Board's procedures, stating that the public is encouraged to submit their comments for future meetings via email to the Planning Department, which is zb@nashuanh.gov, or by mail, at P.O. Box 2019, Nashua, NH, 03061. Mr. Minkarah identified the points of law required for applicants to address relative to variances and special exceptions. Mr. Minkarah explained how testimony we will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws.

- 1. Mark Lessard & Jane McCutcheon (Owners) 26 Verona Street (Sheet 101 Lot 151A) requesting special exception from Land Use Code Section 190-112 to work in the 75-foot prime wetland buffer of Salmon Brook to construct a 12'x12' deck to the back of the house. RB Zone, Ward 6. [POSTPONED FROM 4-28-26 MEETING FOR FURTHER CONSERVATION COMMISSION REVIEW]**

Voting on this case:

Jay Minkarah
Josh Nehiley
JP Boucher
Rob Shaw
Steve Lionel

Mark Lessard & Jane McCutcheon, 26 Verona Street, Nashua, NH. Mr. Lessard said that they're requesting permission to install a deck on the back of their house, they received a positive recommendation from the Conservation Commission. He said that they'd like to construct a 12'x12' deck off the back of the house, to enjoy the

outdoors.

Mrs. McCutcheon said it would be out the second floor of the house, off the back of the house, and will give a nice view of the wet area.

Mr. Minkarah stated that they did sign the affidavit, and said that they're aware of the special conditions, and, with the Conservation Commission's special conditions.

Mr. Lessard said that they agree to all the conditions.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Lionel stated that he is in favor, it's a very straightforward request.

Mr. Boucher said that he is in favor as well, and they don't have many other options for a location for the deck, other than in the wetland buffer.

Mr. Minkarah agreed, there are really no other options, and the deck is a reasonable use.

MOTION by Mr. Boucher to approve the special exception application on behalf of the owner as advertised. He said that it is listed in the Table of Uses, Land Use Code Section 190-112.

Mr. Boucher said that the requested use will not create undue traffic congestion or unduly impair pedestrian safety.

Mr. Boucher said that the use will not overload any public water, drainage or sewer systems.

Mr. Boucher said that all special regulations are met, it was approved by the Conservation Commission on 5-5-2026 with three stipulations of approval, also, the nine individual wetland

special conditions are met per testimony.

Mr. Boucher said that the requested use will not impair the integrity or be out of character with the neighborhood, nor be detrimental to the health, morals or welfare of the residents, the deck is a reasonable use.

SECONDED by Mr. Shaw.

MOTION TO APPROVE CARRIED UNANIMOUSLY 5-0.

2. **John J. Flatley Company (Owner) "L" Dozer Road & 30 Digital Drive (Sheet A Lots 712, 92, 48 and 1011 and Sheet 114 Lot 231) requesting special exception from Land Use Code Section 190-115 (A) to work in a 40-foot wetland buffer to permanently impact 725 sq. ft of wetland and 7,825 sq. ft of wetland buffer (approved by the ZBA on 4-26-2022, permit expired), and an additional 8,240 sq. ft of wetland buffer impact, associated with the extension of Innovative Way to access upland areas for the proposed Northern Tech Center. PI Zone, Ward 8.**

Voting on this case:

Jay Minkarah
Josh Nehiley
JP Boucher
Rob Shaw
Steve Lionel

Dan Borowski, Land Surveyor, Fieldstone Land Consultants, Milford, NH. Mr. Borowski said that this is located in the Park Industrial zone, with a wetland crossing of 725 sq.ft and roughly 8,000 sq.ft of buffer impact approved in 2023, and this was permitted through NHDES, and that permit is still valid until 2028. He said that they have five years to expire, but the approval from the Zoning Board has since lapsed. He said that the impact that they had permitted through the special exception process was basically for a 1,000 sq.ft section of Innovative Drive. He said that now, they are designing out the road, an extension of Innovative Drive to get to the Northern Tech Center, so there is additional grading associated with that, it would be about 8,000 sq.ft of additional wetland buffer impacts. He said that the only crossing is the one that was permitted earlier by the State and this Board, and now are seeking an additional 8,000 sq.ft of buffer impacts to complete

the Innovative Drive extension.

Mr. Borowski said that a site walk was conducted by the Conservation Commission, and Chris Guida attended it from the office, and we were given five stipulations from the Commission, which are all agreed to.

Mr. Shaw asked what constitutes turtle-friendly curbing.

Mr. Borowski said he is not exactly sure, but the wetland scientist will ensure that it will be done, but it's probably something that will be low enough so they can get over it.

Mr. Nehiley said it was interesting that the Conservation Commission gave a two-week time frame to do a full survey for the vernal pools.

Mr. Borowski said that it's because of the time of year, for egg masses, and it needs to be done in the Spring, if you wait until the middle of July, the egg masses won't be there, and they plan on getting out there next week.

Mr. Minkarah asked if there are any vernal pools in the directly impacted area.

Mr. Borowski stated that there are none.

Mr. Minkarah asked what the "data check" is for endangered species.

Mr. Borowski said it is the NH Bureau of Endangered Species has already been run when DES permitted the original crossing to see if there are any endangered species, and if the Conservation Commission wants to have the check run again, they can do it.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

John Cepaitis, 16 Shakespeare Road, Nashua, NH. Mr. Cepaitis asked if he'd get an opportunity to listen to what they're planning to build. He said that when they built the apartment buildings, the first building that went up, they blasted on the hill, and the neighbors were impacted by it, and he had cracked walls and other

damage from the dynamite that was used. He said that since that occurred, they've contacted the Fire Department and know that certain procedures must be in place before certain explosives are used. He said he wants to make sure that they adhere to all the standards they're supposed to, and asked if they'd be notified.

Mr. Minkarah said that he'd be notified if there are any additional Zoning Board or Planning Board approvals that are required. He said that the City does not notify with the issuance of a building permit.

Mr. Minkarah said that the reason why the applicant is before the Zoning Board is only for the impacts to the wetlands and wetland buffer.

Mr. Shaw said that anything they're doing out there would require a site plan and Planning Board review, it will be all the information on what they're going to build.

SPEAKING IN FAVOR - REBUTTAL:

Mr. Borowski said that he believes this is for an R&D building, a 48,000 sq.ft building, and it was previously approved by the Planning Board, and one of the conditions was to obtain a special exception to access the property, and they have an amended site plan in before the Planning Board. He said that there is no intent to connect Dozer Road to Innovative Way, but are in talks with the Fire Department to have an emergency access.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Nehiley said that he is in favor of this application. He said that he has a pretty high standard when it comes to doing anything in a wetland, and likes it when an applicant can leave it better than it was when the work started, however, the Conservation Commission did a great job on this, and has never seen the standards that they put on this with the five criteria with the specific dates, very aggressive dates, to have more information provided. He said that the NHDES has been involved adding to the threshold for approval, and feels very confident that those two groups have reviewed everything going on here. He said that this

is basically the same application that was here a couple years ago, and it was unanimously approved by this Board.

Mr. Shaw said that there's really no way to do this work without the wetland crossing, so it's pretty much a requirement for access and use of this property, so this is something that has to be dealt with, and the good thing is that the NHDES has already seen this. He said that a lot of the property there doesn't seem to have a lot of wildlife, and in walking the site several times, has not noticed a deer, it doesn't seem to be a prime wildlife area. He said that this is a PI zone, and they're actually doing something that is permitted in the PI zone.

Mr. Lionel said that he worked in buildings in this area, and concurs with what Mr. Shaw said, and didn't see this area as a big wildlife area, other than turkeys and some birds, and the fact that they're developing this property for a permitted use is good for the City. He said that the wetland impacts have been extensively reviewed, and is in favor.

MOTION by Mr. Shaw to approve the special exception application on behalf of the owner as advertised. He said that it is listed in the Table of Uses, Land Use Code Section 190-115.

Mr. Shaw said that the requested use will not create undue traffic congestion or unduly impair pedestrian safety.

Mr. Shaw said that the use will not overload any public water, drainage or sewer systems.

Mr. Shaw said that all special regulations are met, it was approved by the Conservation Commission on 5-5-2026 with five stipulations of approval, also, the nine individual wetland special conditions are met per testimony.

Mr. Shaw said that the requested use will not impair the integrity or be out of character with the neighborhood, nor be detrimental to the health, morals or welfare of the residents. He said that the Board noted that this is a PI use in the PI zone, and that the access to the property does require the wetland crossing, the applicant noted that there is some reduced wetland impact and wetland buffer impact based upon some of the changes due to the associated residential property to the north of this, it's currently under development, and the Board heard testimony that NHDES has already approved this and it's still in effect for a

couple years, so the Board finds that all criteria are met.

SECONDED by Mr. Lionel.

MOTION TO APPROVE CARRIED UNANIMOUSLY 5-0.

- 3. Adwait M. & Nehalben S. Sathe (Owners) 6 Sunblaze Drive (Sheet C Lot 2611) requesting variance from Land Use Code Section 190-16, Table 16-3 to encroach 4 feet into the 25 foot required rear yard setback to remove and replace an existing 12'x12' deck with a new 12'x20' deck. FUOD Zone, Ward 5.**

Voting on this case:

Jay Minkarah
Josh Nehiley
JP Boucher
Rob Shaw
Steve Lionel

Adwait Sathe, 6 Sunblaze Drive, Nashua, NH. Mr. Sathe said that the request is to replace the deck, it came with a 12'x12' deck when they bought it nineteen years ago. He said that they'd like a slightly larger deck, at 12'x20' to enjoy time with family. He said it will be used as it always had.

SPEAKING IN FAVOR:

Mr. Minkarah read a letter in support from David Clark, 5 Sunblaze Drive, Nashua, NH.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Boucher said that he is in favor of the application, it's a fairly large house and it would be difficult for anyone to see that the deck is a little larger, also, it's a reasonable use.

Mr. Shaw said that there would be some visibility because of the walking trail, but it's set reasonably far back, and will not create any issues. He said that this subdivision was laid out to maintain as much conservation land and preservation of wetlands as

possible, but some of the lots are constrained by where the house is positioned, but what they're asking for is reasonable.

MOTION by Mr. Nehiley to approve the variance application on behalf of the owner as advertised. Mr. Nehiley stated that the granting of the variance would not be contrary to the public interest, because this deck will not be seen by a majority of the neighborhood, it would only be seen by folks walking on the pedestrian trail in back of the home.

Mr. Nehiley said that the request is within the spirit and intent of the Ordinance, as the way this neighborhood was set up, it is to maximize conservation land, and it is normal to have a deck.

Mr. Nehiley stated that substantial justice will be served, because the applicant is trying to have additional space for his family outdoors, and as noted, there is nothing behind this house, it looks out at a conservation area and will not do any harm to the neighbors.

Mr. Nehiley stated that the Board has no reason to believe that the property values of surrounding properties will be diminished, and there is a letter from a neighbor in full support.

Mr. Nehiley stated that for unnecessary hardship, the way this neighborhood was developed, all of the homes had similar sized decks, and the deck that was built with the house has gotten into a condition that it needs to be replaced for safety issues, and they want to take this opportunity to make it a little bigger to handle a larger family. He said that this neighborhood has conserved a lot of conservation land, so they did have a smaller deck attached to the house, and this will not negatively impact any of the conservation land.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

4. Charles H. & Gabriela H. Bentley, Trustees of the Bentley Family Trust (Owners) Marathon Building & Development, LLC (Applicant) 55A Middle Dunstable Road (Sheet B Lot 1614) requesting special exception from Land Use Code Section 190-112 to impact 1,209 sq. ft of a 20-foot "other" wetland buffer area to construct a retaining wall and associated site improvements associated with a proposed single-family

residential home. R18 Zone, Ward 9.

Voting on this case:

Jay Minkarah
Josh Nehiley
JP Boucher
Rob Shaw
Steve Lionel

Jim Petropulos, IMEG/Hayner Swanson, 3 Congress Street, Nashua, NH. Mr. Petropulos said that the request is for a wetland buffer impact associated with a new single-family home. He said that the subject lot is about .9 acres in size, and is in the R18 zone. He said the property is directly abutted by Ridge Road and Middle Dunstable Road.

Mr. Petropulos said that the property currently contains a single-family home upon it, facing Middle Dunstable Road, and has a rather large side yard area, and in the side portion of the lot, a small watercourse runs through the southerly part of the lot. He said that another firm was working with this property, but are no longer involved and his firm is completing it. He said that this proposal came before the Zoning Board in 2024, and received a variance for a subdivision of one lot into two lots, for lot width.

Mr. Petropulos said in taking over the project, they had to start all over again, and re-survey the property, and while doing so, did not feel that a house could not be reasonably constructed without impacting the wetlands. He said that the builder has agreed to build a narrower house to minimize the impacts, but it still will go into the wetland buffer. He said that the new house would be built 70 feet from the rear property line, as stipulated by the Board at their 2024 approval.

Mr. Petropulos said that their proposal will impact 1,209 square feet of wetland buffer, however, the character of that buffer is mowed lawn, it is a man-made watercourse. He said that when the work is done, the area will be re-seeded and wetland plants will be planted as stipulated by the Conservation Commission.

Mr. Petropulos said that for the points of law, the use is listed in the Ordinance, Section 190-112. He said that the use will not create undue traffic or impair any pedestrian activity. He said that it will not adversely impact public water, sewer or any

utilities, it will be a single-family home. He said that the nine wetland points are all met per testimony, and the request was recommended for approval by the Conservation Commission on 4-7-2026, with 3 stipulations of approval, which are satisfactory to the owner. He said that the use will not impair the integrity or be out of character with the district or immediate neighborhood, nor will it be detrimental to the health, morals or welfare of the citizens of the City.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

END OF PUBLIC HEARING, BEGINNING OF PUBLIC MEETING:

Mr. Lionel said it was a very comprehensive proposal, and appreciates IMEG/Hayner Swanson taking over this project to do the right thing. He said that he is in support.

Mr. Minkarah agreed, it's very challenging to develop a single-family home on this lot without the buffer impact, and they've done a reasonable job with the topography and retaining wall, and it makes sense, and have done the best they can.

Mr. Shaw said he appreciates the intent to not push the water body away from the house, and to work around, and with the buffer as much as they can.

Mr. Minkarah said that it is a man-made drainage area.

MOTION by Mr. Minkarah to approve the special exception application on behalf of the owner as advertised. He said that it is listed in the Table of Uses, Land Use Code Section 190-112.

Mr. Minkarah said that the requested use will not create undue traffic congestion or unduly impair pedestrian safety it is one single-family home in an otherwise predominantly single-family neighborhood.

Mr. Minkarah said that the use will not overload any public water, drainage or sewer systems, it is only one single-family home.

Mr. Minkarah said that all special regulations are met, it was approved by the Conservation Commission on 4-7-2026 with three stipulations of approval, also, the affidavit for the nine individual wetland special conditions are met per testimony, also the area is a man-made buffer, they've designed the house as narrow as they could, and with the topography, the retaining wall is necessary, and they've accepted the mitigation proposal from the Conservation Commission, and drainage measures have been agreed to, also, there is no impact to wildlife.

Mr. Minkarah said that the requested use will not impair the integrity or be out of character with the neighborhood, nor be detrimental to the health, morals or welfare of the residents, it is a single-family home in a predominantly single-family residential neighborhood.

SECONDED by Mr. Shaw.

MOTION TO APPROVE CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REGIONAL IMPACT:

The Board did not see any cases that would have Regional Impact.

MINUTES:

April 28, 2026:

Mr. Lionel said on page 9, second paragraph, second line, where it says units A and B, there should not be an apostrophe in the word "units".

Mr. Patry said on page 6, the paragraph that is after the motion by Mr. Nehiley, the one that starts with Mr. Nehiley said that the request is within the spirit and intent of the Ordinance, the last half of that sentence is a little jumbled, and thought it might say that the driveway is significantly up to the lot line.

Mr. Minkarah said that is what he meant, it can't mean that the lot line is up to the lot line.

Mr. Patry said that the next line after that starts with than what,

and thinks it should be instead of than what, it should be that what they use now, as the driveway is already up to the line they're already using.

Mr. Minkarah said it could just be than.

Mr. Patry said on page 12, where it says Mr. Patry said that the MLS said that it was indicated, he would add the assessor's notes have a note that the MLS indicated.

MOTION by Mr. Lionel to approve the minutes with the aforementioned revisions, waive the reading, and place the minutes in the file.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

REHEARING REQUESTS:

None

ADJOURNMENT:

MOTION by Mr. Shaw to adjourn the meeting at 7:27 p.m.

Submitted by: Mr. Falk, Clerk.

CF - Taped Hearing