



Town of Hopkinton Planning/Building Department

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HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES APRIL 7, 2026

Members present: Chair Daniel Rinden, Jessica Scheinman, Andy Locke, and Jeffrey Price.
Staff present: Planning Director Karen Robertson.

I. Call to Order/Roll Call.

Chair Daniel Rinden called the meeting to order at 5:30 PM at the Hopkinton Town Hall, 330 Main Street, Hopkinton, NH, introduced the Board members, and confirmed the presence of a quorum. The Board typically consists of five members; however, one member was absent, leaving four members present. A minimum of three affirmative votes is required to approve any application, and, in the event of a tie, deliberations would continue. Applicants were given the option to proceed with four members or continue the matter to a future meeting; the applicants elected to proceed.

II. Applications.

#2026-1 Jane Bradstreet, Frederick Bradstreet, and Lauren A. Bradstreet

Request for an Equitable Waiver of the side-yard setback for an existing detached Accessory Dwelling Unit (ADU) in the R-2 District. The request is submitted pursuant to Section 14.7.4 of the Hopkinton Zoning Ordinance. The property is located at 333 Gould Hill Road, Tax Map 240, Lot 32.

Ms. Lauren Bradstreet, of 333 Gould Hill Road, read into the record the written responses addressing the Equitable Waiver criteria.

- 1) **That the violation was unknown to the owner, owner's predecessors, owner's agent or representative, or municipal official, until after the structure in violation had been substantially completed, or until after a lot or other division of land in violation had been conveyed to a bona fide purchaser for value (i.e. an innocent purchaser who had no knowledge or reason to know of any problems and who, in good faith, paid full value):** "The violation was unknown to the property owner, the owner's contractor and subcontractors, and municipal officials until after the structure had been substantially completed. The violation was identified upon review of the as-built survey prepared following construction."
- 2) **That the violation was caused by a good faith error in measurement or calculation by an owner or agent or an error in interpretation of the Ordinance or its applicability by a municipal official in the process of issuing a permit, while that official was acting within the scope of his/her authority:** "The violation was caused by a good-faith error related either to site conditions encountered during layout or to the placement of the structure during construction. For example, ledge was encountered that affected foundation placement, and one portion of the foundation was pinned to ledge rock. While

Subject to review and approval.

delayed submission of the as-built survey prevented earlier identification of the dimensional discrepancy, there was no intentional disregard of the Zoning Ordinance or misrepresentation in the permitting process.”

- 3) **That no public or private nuisance may be created by the violation:** “The setback encroachment does not create a public or private nuisance. The structure is residential in nature, is located approximately 575± feet from the public roadway and more than 200 feet from the Kuster residence, does not affect traffic, drainage, utilities, or public safety, and is consistent with the rural residential character of the area. The dimensional nonconformity results solely from the garage being attached to the Accessory Dwelling Unit and does not otherwise alter the scale, use, or character of development in the neighborhood.”
- 4) **That there will be no diminution in the value of other property in the area:** “The violation will not result in a diminution in the value of other properties in the area. The Accessory Dwelling Unit is accessory to an existing single-family residence, is situated on a large lot, is not visible from the public roadway, and is more than 200 feet from the abutting residence most closely associated with the encroached side-yard setback.”
- 5) **That the violation will not interfere with or adversely impact any present or permissible future uses of any such property:** “The setback encroachment does not interfere with or adversely impact any present or permissible future use of abutting properties. The reduced setback does not limit access, development potential, or lawful use of the abutting parcels. The encroachment is 4.6 feet at the greatest point of the garage attached to the ADU.”
- 6) **That due to the degree of past construction or investment, the cost to correct the violation so far outweighs the public benefit to be gained that it would be inequitable to require the violation to be corrected:** “Due to the degree of completed construction and investment, the cost and hardship associated with correcting the violation would far outweigh any public benefit gained by strict enforcement. Removal of the portion of the garage that encroaches into the side-yard setback would likely render the garage unusable and would require substantial reconstruction or relocation. In addition, the portion of the Accessory Dwelling Unit attached to the garage would also require significant reconstruction. The public benefit of strict enforcement in this instance is minimal, while the resulting impact on the property owner would be substantial.”

Board member Jessica Sheinman asked why the required as-built survey had not been submitted prior to framing, as required by the permit.

Mr. Frederick Bradstreet responded that they were unaware of the requirement and had relied on the contractor. It was noted that the issue was not discovered until after the as-built survey was completed.

Planning Director Karen Robertson explained that submission of an as-built survey prior to framing is a standard requirement; however, in practice, the Town has given some flexibility on timing, particularly on larger parcels where setbacks are not expected to be an issue. She acknowledged that the delay in identifying the issue was partially attributable to the Town’s process, noting that it was not identified until the Certificate of Occupancy stage.

Further discussion addressed construction sequencing challenges, including the difficulty of coordinating inspections and surveys with timing of materials and contractor scheduling.

Ms. Jane Bradstreet noted that abutters had been consulted, including the nearest abutter (Kuster), and that no concerns were raised. It was further stated that the structure's location was influenced by site conditions, including ledge and drainage considerations.

The Chair and Board members discussed the topography of the site and acknowledged that, although the plan may suggest additional flexibility, the actual site conditions limited placement options.

Chair Rinden then opened the hearing for public comment. With no members of the public wishing to speak, the public comment portion of the hearing was closed, and the Board proceeded to deliberate on the matter.

Chair Rinden opened discussion by noting that the situation appeared to involve two issues: the failure to submit the required as-built survey prior to framing, and the dimensional encroachment into the side yard setback. He commented that similar situations have arisen in the past where contractors or applicants did not verify compliance at the appropriate stage.

Board member Jessica Sheinman acknowledged that, while the responsibility for submitting the as-built survey ultimately rests with the applicant, the testimony indicated that the requirement is not always strictly enforced prior to framing, particularly on larger parcels. She noted that the delay in submission did not appear to be unusual and that, in this instance, did not rise to a level that would warrant denial of the request. She further indicated that the violation did not appear to have a significant impact on surrounding properties or the public.

The Board then discussed the location and nature of the encroachment. Chair Rinden observed that the structure is situated in a remote portion of the lot, at a considerable distance from both the public roadway and abutting properties, and that the encroachment—approximately 4.6 feet at its closest point—was relatively minor. He noted that, given the size of the parcel and surrounding conditions, the encroachment appeared to have little to no effect on neighboring properties. Members generally agreed that the site's isolation and limited visibility reduced the potential for adverse impacts.

The Board also considered the role of site constraints in the placement of the structure. It was noted, based on testimony, that ledge and drainage considerations influenced the final location of the foundation, and that shifting the structure further away from the setback line may not have been feasible given the topography.

Discussion then turned to broader procedural considerations regarding enforcement of as-built survey requirements. Mr. Locke questioned whether there may be a more appropriate point in the construction process to verify setbacks, such as at the time of foundation footings, rather than after framing.

Board members also discussed the frequency of such cases, with Ms. Robertson noting that only a small number of similar situations have occurred over a period of approximately ten

years. The Board generally agreed that, while not common, it may warrant continued attention to ensure that procedures are as effective as possible.

In considering the criteria for an Equitable Waiver, the Board focused on the balance between public benefit and private hardship. Ms. Sheinman stated that the public benefit of strict enforcement in this case would be minimal, particularly given the lack of impact on abutters or the surrounding area. She contrasted this with the substantial hardship that would result to the applicant if the structure were required to be altered or removed.

Board members concurred, emphasizing that the encroachment was minor, the location remote, and the overall impact negligible. The Board agreed that the violation was unintentional, reiterating that the cost of correction would be disproportionate to any public benefit gained.

MOTION made by Andy Locke, seconded by Jessica Scheinman, to **APPROVE** the application for an Equitable Waiver of the side-yard setback for an existing detached Accessory Dwelling Unit (ADU) in the R-2 District. Motion carried in the affirmative by roll call vote of Locke, Price, Scheinman, and Rinden.

FINDINGS OF FACTS: Based upon the testimony presented, the application materials, and the Board's deliberation, the Board determined that the criteria for granting an Equitable Waiver under Section 14.7.4 of the Zoning Ordinance were satisfied. The Board found that the setback encroachment was unintentional, minor in nature, and the result of good faith error influenced by site conditions. The encroachment does not create a nuisance, diminish surrounding property values, or adversely impact abutting properties. The Board further found that the public benefit of strict enforcement would be minimal, while the cost and hardship to the applicant to correct the violation would be substantial. Accordingly, the Board concluded that granting the waiver is reasonable and appropriate.

#2026-2 Donald R. Primrose (Applicant); Daniel and Sarah French (Owners) Request for a Special Exception to permit the conversion of a single-family detached dwelling into a two-family attached dwelling. The request is submitted pursuant to Table of Uses 3.6.A.5 of the Hopkinton Zoning Ordinance. The property is located off Farrington Corner Road, Tax Map 266, Lot 49.

Chair Dan Rinden introduced the application and noted that, due to the absence of members of the public, the Applicant could proceed directly with an overview of the proposal rather than a formal reading of the criteria.

The Applicant presented the proposal, explaining that a building permit had already been issued for construction of a single-family home with an attached Accessory Dwelling Unit (ADU). The Applicant explained that, under the current ADU provisions, the square footage calculation includes certain areas such as basement space, even if unfinished, which creates limitations on how the structure can be designed.

The purpose of the Special Exception request is to allow the structure to be classified as a two-family attached dwelling rather than a single-family dwelling with an ADU. This change would permit the inclusion of a full basement beneath the ADU portion, rather than a reduced or "substandard" basement. The representative emphasized that the overall building design would not change, including the footprint, layout, and appearance, and that

the structure would remain a single building with an internal connection between the two units. The proposal was described as maintaining a primary residence with an attached secondary unit, with consideration given to long-term use, including accessibility and aging-in-place.

The Applicant further noted that the property is located a considerable distance from abutters, stating that the structure is hundreds of feet from neighboring properties. Utilities, including the well, are already in place, and the septic system has received State approval. The representative emphasized that what is visible from the roadway would remain unchanged, and that the modification is primarily a technical adjustment to allow a full basement rather than a limitation imposed by ADU regulations.

The Applicant's written response to the criteria for a Special Exception as outlined in Section XIV of the Zoning Ordinance was as follows:

- 1) **Standards provided by this Ordinance for the particular use permitted by special exception:** “The Ordinance provides for a Dwelling, Two-Family in Zone R-3 by special exception, Section III, Subsection A(5).”
- 2) **No hazard to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.** “The proposed use of this property is residential. No hazards exist to adjacent properties. A potential risk of fire is the same as any new home permitted in the R-3.”
- 3) **No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutants, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.** “The proposed two-family dwelling would not be a detriment to the surrounding property values. The home location is on an 18+ acre lot, 400+/- feet back from Farrington Corner Road. Approximately 1,140 feet of the road frontage (Farrington Corner Road) is to remain in Current Use further buffering any effect of a new two-family home from the abutters.”
- 4) **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.** “Vehicle count added to Farrington Corner Road would be similar to any single-family home with an ADU, currently allowed, or a two-family home.”
- 5) **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** “The subject property has a State approved septic plan (approval No. ECA2024101007, dated October 10, 2024). A new private well installed on May 30, 2025, and recorded with the State of New Hampshire. Required Town services, including police, fire, and public schools, would be typical to any home in Hopkinton.”
- 6) **No significant increase of stormwater runoff onto adjacent property or streets.** “The proposed two-family home would not have any effect on stormwater runoff onto adjacent properties or streets. The adjacent street (Farrington Corner Road) and the subject property’s abutting homes actual drain onto this property and into Crowell’s Pond.”

- 7) ***An appropriate location for the proposed use.*** “Allowing a two-family home on this lot is an appropriate use of this property while maintaining (protecting) the natural surrounding and preserving the historical significance of the mill site.”
- 8) ***Not adversely affect the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.*** “Allowing a two-family home on this property is not detrimental to the adjacent neighborhood in any way. A two-family dwelling has little or no change in impact than the permitted home with a 1,400 SF ADU.”
- 9) ***In the public interest and in the spirit of the Ordinance.*** “In the spirit of the ordinance, Section III, 3.6, Subsection A(5), Dwelling, Two-Family, a two-family home may be allowed by special exception. This property can provide adequately for a two-family home without major disruptions of the natural terrain, vegetation, or water courses, while blending into the neighborhood.”

Chair Rinden asked if there were any questions from the Board. Board members indicated that they had no questions. The Chair commented that the request appeared to be straightforward and consistent with the intent of the ordinance.

During discussion, the representative remarked that, in their experience, the inclusion of basement space within ADU square footage calculations is unusual, particularly where the basement is unfinished, and suggested that this may be an area for future ordinance review. The Board acknowledged this observation.

Chair Rinden then opened the hearing for public comment. With no members of the public wishing to speak, the public comment portion of the hearing was closed, and the Board proceeded to deliberate on the matter.

The Board entered deliberation, noting that the request meets the requirements for a Special Exception and is consistent with the Zoning Ordinance. Members agreed that the proposal does not introduce additional impacts beyond those already anticipated under the approved single-family with ADU configuration, and that the conversion to a two-family attached dwelling is largely a reclassification that allows greater flexibility in design without altering the external appearance or use of the structure.

MOTION made by Jeff Price, seconded by Jessica Scheinman, to **APPROVE** the application for a Special Exception to permit the conversion of a single-family detached dwelling into a two-family attached dwelling in the R3 District. Motion carried in the affirmative by roll call vote of Locke, Price, Scheinman, and Rinden.

FINDINGS OF FACTS: Based upon the application materials, testimony presented, and the Board’s deliberation, the Board determined that the criteria for granting a Special Exception under Section XIV of the Zoning Ordinance were satisfied. The Board found that the proposed conversion to a two-family attached dwelling is consistent with permitted uses in the R-3 District and will not create adverse impacts to the neighborhood, public safety, or municipal services. The Board further found that the proposal represents a reasonable modification of an already approved residential use, with no change to the building footprint

or external appearance, and that any impacts would be comparable to those of a single-family dwelling with an Accessory Dwelling Unit. Accordingly, the Board concluded that the request is appropriate and consistent with the spirit and intent of the Zoning Ordinance.

II. Review the Minutes and Notice of Decision of August 5, 2025.

With four members voting, three (Price, Locke, and Rinden) voted in favor and one (Scheinman) voted in abstention. The motion carried in the affirmative to **APPROVE** the meeting minutes of August 5, 2025.

With four members voting, three (Price, Locke, and Rinden) voted in favor and one (Scheinman) voted in abstention. The motion carried in the affirmative to **APPROVE** the Notice of Decision of August 5, 2025.

III. Other Business. There was no other business to come before the meeting.

IV. Adjournment. Chair Rinden declared the meeting adjourned at 6:35 PM. The next scheduled meeting is at 5:30 PM on Tuesday, May 5, 2026.

Karen Robertson
Planning Director

Ordinance §15.9 "Representations made at the public hearing or material submitted to the Zoning Board of Adjustment by an applicant shall be deemed conditions of any approval."