

Town of Cornish, New Hampshire
Zoning Board of Adjustment
PUBLIC HEARING MINUTES **UNAPPROVED**
June 1, 2026
Case 2026-03

The Zoning Board of Adjustment met on Monday, June 1, 2026 at 6:30pm at the Cornish School Library to hear Case 26-03, James Liggett for a Special Exception and a Variance regarding property located at 30 Leavitt Hill Road, tax Map 16, Lot 27.

Present for the ZBA: Michael Fuerst, Kate Freeland, Merilynn Bourne, Kerry Osgood, Troy Simino

ZBA Alternates Present: Karim Chichakly, David Haseman

Present for the Applicant: James Liggett

Present for the Public: Rhoda Bunnell, David Monett, Maria Monett, William Monett, George Edson

Michael Fuerst, ZBA Chair, called the hearing to order at 6:33pm, reporting that we were present for a hearing regarding the property of James Liggett on Levitt Hill Road. The chair then asked the clerk to report.

Merilynn Bourne, ZBA Clerk, presented the Hearing Invoice for payment. Payment in full being received, the clerk read the Notice of Hearing and announced the date of publishing in the Valley News (May 26, 2026), the date of posting at the Town Office and 12% Solution (May 22, 2026), the date of publishing in Connect Cornish (May 25 & 29 2026).

The clerk then reported that Certified Mailing to abutters was sent May 23, 2026 to:

Amidon Family Trust

Rhoda Bunnell

Pamela Hier

Robert Hier

James Liggett

Tamsin Orion

James & Karen Strout

Town of Cornish

Certified Receipts were received from:

Amidon Family Trust

Rhoda Bunnell

Pamela Hier

James Liggett

Tamsin Orion

Town of Cornish

The clerk then called the roll:

Michael Fuerst, present

Kate Freeland, present

Kerry Osgood, present

Troy Simino, present

Merilynn Bourne, present

Alternates Present:

Karim Chichakly

David Haseman

The chair reported that we had a full board so Alternates were not required to “sit” for this hearing but were welcome to contribute and ask questions throughout the hearing.

The chair then explained the purpose of the hearing was to hear a request from James Liggett for a Special Exception to permit the addition of an eight foot (8ft) by thirty one foot (31ft) porch on the downhill side of the subject premises, as well as a Variance for the same should the Special Exception not be granted. The chair then invited the applicant, James Liggett to present his case and explained how the hearing would proceed, starting with the request for a Special Exception. After all present have had an opportunity to speak, the board will go into deliberations. Should the Special Exception be denied, Mr. Liggett will then be invited to present his case for a Variance after which the board will deliberate and vote on the request for a Variance.

Mr. Liggett opened his request for a Special Exception by stating that this has been an ongoing project for ten (10) years. He purchased the house in 2016. Mr. Liggett stated that the project entailed the re-orientation of the house due to safety issues. He feels the addition of the porch is not a substantial improvement because it addresses basic safety issues. He feels the porch should be looked upon as separate and apart from the extension on the uphill side. The front porch is fundamental to the re-orientation of the house, accommodating safety issues that the original orientation of the house presented. Mr. Liggett shared his layout sketch of the original orientation of the house as it was built in 1840 and including the addition that was approved in 2016. Mr. Liggett explained that his goal was to have a home for his parents without the challenges of a multi floor house. He

further explained that the Selectmen had denied a permit for an extension so he went before the ZBA and received approval for the extension on the uphill side of the structure but was denied approval for the deck on the brook side of the house. He stated he was told he could come back at a later date and they could review it again. The chair marked the plan as Exhibit 1. Kate Freeland asked if the Zoning Board denied the deck and Mr. Liggett replied that the board did deny the porch. Mr. Liggett then went on to state that the structure is on a dirt road and that people sometimes drive that road in excess of 40 mph. The original orientation of the house had the front door opening out toward the road. Mr. Liggett decided that was not ideal for safety and privacy so he decided to raise the original house and build new with the house re-oriented so that the front door would open on the downhill side. Mr. Liggett stated that these changes were approved in 2017. The chair asked if that was when the Selectmen issued a permit for the porch. Mr. Liggett responded, "correct". He further explained that the reason it was approved was because the dimensions of the porch were the same, if not less than, the previously approved addition on the uphill side. For that reason, he was not required to go before the ZBA. The chair asked if the original structure was 32' x 25'. Mr. Liggett said that was correct. The chair asked if 2016 was when approval given by the ZBA for a 12'x31' addition on the uphill side. Mr. Liggett said, "yes". The chair commented that in 2017 Mr. Liggett went to the Selectmen for a permit for an 8'x31' porch and then had a number of extensions to that permit. The porch permit ultimately expired and no longer exists. Mr. Liggett stated that the permit expired November 25, 2025 and he was then required to meet with the ZBA. Mr. Liggett stated that the Selectmen were not agreeable to honoring a nine year old permit. Mr. Liggett appealed that denial to the ZBA and this board turned down that appeal. The chair stated that Mr. Liggett is now before the ZBA for a Special Exception for an 8'x31' porch on the downhill side of the building. Mr. Liggett replied, "correct". The chair added that the 12'x31' uphill extension had been approved and that the Selectmen agreed that Mr. Liggett had made substantial effort on that addition so he is allowed to continue to build. The chair stated that Mr. Liggett is now here requesting further extension of the building by the addition of an 8'x31' porch. Mr. Liggett responded, "correct". The chair pointed out that originally Mr. Liggett labeled it a "deck. Mr. Liggett took a moment to provide evidence that the pillars for the porch were installed in August of 2017. Karim Chichakly commented that it was irrelevant to the issue at hand but Mr. Liggett responded that it had to do

with undertaking a building permit. Karim responded that there were other issues at hand, not that issue.

Mr. Liggett then provided the definition of a porch vs a deck that he found on the internet. A porch is covered and connected to the front door of the house, while decks are for backyard privacy and entertainment. David Haseman asked about the source of the definition since it could be someone's opinion. The chair asked what Mr. Liggett intended to build if approval was granted. Mr. Liggett intends to build an 8'x31' porch with a hip roof that would not be enclosed with one or two steps leading up to it from the road side.

Kate Freeland asked if the entrance to the house would still be within 15' from the road to which Mr. Liggett replied that "no", that it would be further back because there would be an "indent". David remarked that the porch addition on the downhill side would have a front door. Mr. Liggett said, "yes". Karim added that cars would be parked on the uphill side so people would still have to walk along the road to get to the porch on the downhill side. Mr. Liggett said, "yes" and added that there is also parking below the house. Karim stated that he understood that if the porch were to be built on the downhill side, that parking area would no longer be accessible because the porch would come out too far. Mr. Liggett said that was incorrect. Mr. Liggett then read through his application for a Special Exception, reading items 1-6. After reading item #1, Troy Simino had a question regarding the re-orientation of the house and the location of the gable end of the house. Mr. Liggett used his plan layout to show that the roof line would now pitch toward the road. Troy pointed out that runoff would now pitch toward the stream as well. Mr. Liggett then read from item #2 from his application. Mr. Liggett presented his documentation (see file) affirming that the structure was not in the 100 year regulatory floodplain. Kate commented that the entire property is, however, within the Shoreland Overlay Conservation District which is 100 feet from any waterway and there are restrictions on buildings within that overlay. The chair added that if you have a building within that zone you may be able to expand it but the expansion cannot exceed 50% of the original structure. See article IV, section d. There are multiple sections pertaining to the issue. Article VII, section d, #5 regarding the 50% expansion rule. Mr. Liggett argued that the measurement should be based upon a footprint that includes the approved addition. Karim responded that the reason Mr. Liggett was denied the deck the first time was the substantial expansion issue. Mr. Liggett added that he

was told they could review the issue at a later date and possibly approve. Merilynn pointed out that there was a request from the ZBA for a hydrological survey for any future action by the ZBA. Merilynn also pointed out that there was no surveyor's measurement from the brook to the foundation of the structure. There were only measurements by Mr. Liggett. The chair added that if the board is to rely upon the measurements provided by Mr. Liggett, the entire parcel is within the shoreland protection overlay. The board would need to decide if the 50% rule should be based upon the footprint of the original structure or the footprint of the original structure plus the permitted addition. Kate feels that if the board was to not consider that addition as part of the substantial improvement rule, the person could add on and then add on and continue adding on which is not in the spirit of the ordinance. Mr. Liggett reiterated that the porch addition was a safety feature and for elderly people. Kate stated she thought a 7'x4' porch would allow access and fall right at 50% for the addition. Mr. Liggett stated that would be dangerous because four feet would be barely enough room. Kate responded that she was simply explaining what would provide access from the front of the house. Mr. Liggett said that was why he was asking for a Special Exception. Kate explained that a Special Exception is only allowed if the expansion is under 50%. Her understanding of the ordinance is that what Mr. Liggett is asking for is not allowed under Special Exception. Mr. Liggett asked if the request would be allowed under a Variance. Kate replied that a Variance is for something that is not allowed under Special Exception. In order to move to the Variance request, Mr. Liggett read through items 3-6 of the Special Exception. The chair asked if Mr. Liggett had anything further to add and he responded, "no".

The chair asked if abutters or public had comments in support of Mr. Liggett's request for a Special Exception. There were none. The chair asked if there were any comments from the abutters or public against the request for a Special Exception. There were none. At that point, the chair closed the public portion of the hearing. He then identified the facts of the case: (see file)

The chair then asked the board if there were any facts that he left out. Mr. Liggett presented a current photo of the structure showing the location of the front door, 16 feet in from the corner of the house. He stated that was where it had been for nine years. Kate commented that the house has not existed for nine years. Mr. Liggett replied that the design for the house has existed for nine years.

Troy Simino commented that he had a concern regarding town services because the plan doesn't show measurements for the road right-of-way. Its boundary is not shown on the survey. The new orientation of the roof has the capacity to shed snow and ice into the travel portion of the road and that is a concern. The chair stated that these are all the findings of fact so far, so it was time to deliberate regarding the granting of a Special Exception.

Troy commented that he does not feel item 4 of the application meets the criteria and if the expansion is over 50% of the original structure it does not meet the criteria for a Special Exception. Kate agreed. The chair asked for a motion regarding the applicant's request for a Special Exception.

Troy Simino moved to deny the application for a Special Exception, seconded by Kate Freeland. By virtue of the fact of Article 7, D, 5-c, the approved addition and the proposed porch of 8'x31' exceed 50 % of the square footage of the existing, original non-conforming structure. That is the reason for the denial. The chair called for a vote and the vote was unanimous to deny the request for a Special Exception.

Mr. Liggett was then invited to speak to his request for a Variance. Mr. Liggett asked if the board found that the structure is not within the regulatory flood plain. The chair stated the board had found that it was not in the regulatory floodplain. Mr. Liggett read through his Variance application (see file). He read through "Facts in support of granting the variance:", 1-5. Rhoda Bunnell asked if the foundation had been moved closer to the road. Mr. Liggett said absolutely not. The footprint of the original house is still the footprint of the new structure. He added that in fact, the approved addition was further from the road than the original footprint and the proposed porch would also be further from the road. Kate asked if Mr. Liggett had considered putting an access at the basement level. Mr. Liggett responded, "not at all because the basement is and will be unfinished for the time being". Kate asked if there would be stairs from the basement up to the living space and Mr. Liggett said there will and that the basement would be an open space, not a living space. Kate asked if there could be a door at the basement level and then people could access the main living area through the basement and Mr. Liggett responded that would defeat the purpose of having the living space on one level. Kate asked how many steps were needed to access the porch. Mr. Liggett said one (1) or two (2) steps to get to the porch. There

followed a discussion regarding the topography of the site relative to the access to the proposed porch. David Haseman commented that the entrance to the basement was at least five feet lower than steps to the proposed porch would be. Mr. Liggett offered a photograph labeled Addendum #9 from the January hearing to clarify where the slope begins on the downhill side of the structure. Mr. Liggett pointed out that from a level spot it drops down 6-7 feet. He remarked that it was about a 5 foot drop below the planned door. The steps to the porch would come up from the level spot and there would be only one or two steps. The chair stated that Addendum #9 (a picture of the foundation and the placement of piers to accommodate a porch) of the January application would be made part of this record. Karim asked about people parking and how they would access the house during the winter. Mr. Liggett explained why there would be alternate places to park and the site would be plowed with that in mind. He stated the area on the uphill end of the house would be kept plowed for parking and the stretch from the parking area to the proposed porch would be plowed. Merilynn mentioned that there was a back door by the uphill parking area. Mr. Liggett stated that was a convenient entrance and very safe and leads into the kitchen and from there into the main living area. The chair asked why then, was there a need for a second door. Mr. Liggett stated that for safety reasons a house should have two doors. The chair stated that Mr. Liggett indicated the Selectmen were aware of the reconfiguration and asked Mr. Liggett when did he decide to reconfigure the building and change the slope of the roof. He stated it was after he got the porch approved. The chair asked if there was ever a plan to show the change. Mr. Liggett pointed to a simple sketch that did not show the change in the pitch. The chair asked how anyone would know that the intent was to reconfigure the roofline? Mr. Liggett responded, "possibly verbally?" He wasn't sure. The chair asked if there were other questions or comments. Kate stated she keeps looking for other ways to make the plan work without the porch. She commented that there is a back door where there would be parking and if a second door is needed for emergency exits, couldn't there be a door on the road side of the house. Mr. Liggett asked why would you do that and Kate responded to comply with the ordinance and not add the porch. Mr. Liggett stated he had to have the porch because he had a front door that would go nowhere. Merilynn commented that he could reconfigure that door. Mr. Liggett said he would like the door where he has it and Kate replied that she understood what he would like but that she was looking for ways to comply with the ordinance. Mr. Liggett asked if there was something under a variance that is opposed to what he is doing. The chair

explained that the ordinance doesn't allow for what Mr. Liggett would like to do and that is why he is seeking a variance. The chair further explained that one option for a door on the downhill side for safety purposes would be to shorten the porch. Instead of being 8'x31', it could be 6'x12', for example. Kate stated that an 8'x8' porch would bring the improvement to 54.5%. Mr. Liggett responded that such a porch would get you "half way to the front door". The chair explained that under a variance, you only get what is needed due to a "hardship". The complication is that there was no building plan in 2016 or 2017 when the porch permit was approved. The sketch showed the porch but not where the door was going to be and it didn't make the roofline adjustment clear. Mr. Liggett said that nine years ago he didn't know to draw those in. Karim pointed out that the dimensions on the actual permit did not match what the ZBA had approved. The chair then invited the abutters to ask questions.

Rhoda Bunnell stated she is confused because for years Martha and two children lived in the original house and the main door was on the road side without any problems because there is plenty of room there. The house is 15 feet from the road.

The chair pointed out that Addendum #10, submitted at the January hearing, identifies the property at 30 Levitt Hill Road with house with entry facing southwest, which is downhill, and this is an application for an 8'x31' porch. It also identifies the set back from the road as 16 feet. Addendum #10 was the permit renewal which was denied in 2025. Under other questions or comments, Troy stated he felt the board should consider the permitting history as "hazy" but agree that the house and its first addition should be considered approved and what we are now considering is a permit for the porch addition. He further commented that a variance is only granted when there is no other option due to some specific, unique feature of the property so it does not consider an applicant's wants or wishes. A variance is only considered if there would be no other way to utilize the property.

The chair reviewed the conditions for granting a Variance 1-5 (Article X, Section G, Variance).

Mr. Liggett asked the chair to re-read item #5, regarding comparable properties in the area. The chair did so. Mr. Liggett then stated that his property did have

unique properties that differ it from other properties in the area. There may be other properties that open onto the road, as on School Street, but people do not drive as fast on School Street as they do on a dirt road. Also those houses that open onto the road have not had the option to change their entrance. Mr. Liggett states that his property is unique in that it is close to a rural, dirt road where people go very fast on that portion. He put the doors where he has them because of safety issues. Mr. Liggett feels his design is a common sense solution for safety reasons. He further stated that for nine years he has progressively worked on the structure and has followed all the regulations including visits to the ZBA and the Selectboard. He stated that the house will be an attractive addition to the neighborhood. Kate responded that no one was arguing the attractiveness of the plan but that the house needs to be built within compliance with the ordinance. Mr. Liggett stated he had. He had a building permit for the porch approved. Merilynn commented that the building permit was approved in 2017 due to the fact that the Selectmen at that time did not look at the ZBA file or they would have seen that Mr. Liggett was required to return to the ZBA at a later date with a hydrological survey for approval of another addition. There were no further questions so the Chair closed the public portion for deliberations.

The chair moved to the facts of the case, stating that the facts were already identified for the Special Exception question and asked if there were any other facts that should be identified pertaining to the request for a variance.

Mr. Liggett asked for one more input. Mr. Liggett stated he was reading through the minutes of the January appeal and felt there were errors referring to the requested addition of a deck but calling it a porch. He stated "they are very different things". The chair commented that the issue was not pertinent to this hearing. Mr. Liggett disagreed. Based on Merilynn's comments, he stated that he didn't know if the ZBA decision stated he "could" come back to them or "would" do that. The chair explained that the issue is, right or wrong, that Mr. Liggett received a permit to build a porch from the Selectmen in 2017 which was extended a number of times and it expired in 2025. Therefore he was subject to what the rules required, which was to get a Special Exception for the porch or a Variance. The question for a variance is whether or not there is a way to provide the applicant with what he wants.

The chair explained how we will decide the variance criteria. Mr. Liggett spoke to the Hardship issue. He feels the hardship is receiving a legal permit from 8 or so years ago and working on the structure since then. Mr. Liggett stated he did not try to dodge the ZBA. He went to the Selectmen and they had whatever information they had and they were a higher legal authority and then 8 years later, there were new Selectmen and they decided they would not approve the extension. Mr. Liggett provided the board with his written summation of the case.

The chair then closed the discussion for deliberations and asked if there were any other identifying facts from the board. Kate stated that there is an entrance to the house and that another entrance/exit for safety could be added without building a porch. There were no other facts to add.

The chair read through the criteria for granting a Variance: (see ordinance, Article X, G., Variance)

#1., The variance will not be contrary to the public interest: Kate commented that the shoreland overlay was environmental protection so the addition would go against the public interest because it goes against environmental protection. Troy said it would not be in the public interest because the roof would add snow load to the road and the addition of a porch would force the residents to walk between the house and the edge of the road which would be covered in snow. Troy added that the environmental issue stated by Kate was that there would be an increase to the impervious surface forcing runoff into the stream. However, Troy is more concerned about the safety of the residents forced to walk in close conjunction to the road where people travel 40mph. There will be an increased snow load and residents will walk very close to the traveled way. The chair commented that the orientation may be the problem and the orientation already exists. Troy remarked that the orientation is there but the porch is not and now we know that in order to get to the porch, if we approve it, residents will be forced to walk along the road and we are not certain of the setback from the right-of-way but we would be forcing people to walk down to this porch that is now the main entrance. Public interest would be for the individuals in the house and people driving on the road.

#2., The spirit of the ordinance would or would not be observed because:

Kate stated her same environmental concern.

#3., Granting a variance would or would not do substantial justice because: Kate read from the NH ZBA Handbook, any loss to the individual that is not outweighed by a gain to the general public is an injustice. The chair commented that he did see the benefit to the owners of the house of not having a door that opens directly onto the road so he is not certain the public interest is outweighed by trying to make the house more livable, accommodating in light of the fact that it sits so close to the setback of the road. Troy commented that adhering to the ordinance is justice for the public as people expect that the ordinance is followed. Justice for the public or injustice to the applicant is the balance and he feels we are at a “neutral” point with this question. Troy further commented that when Mr. Liggett purchased the original house, knowing how close it was to the road, that would have been the time to ask for approval to move the foundation. There is an existing door that does not face the road and windows can be a legal form of secondary egress. If Mr. Liggett wants to keep the front door where it is he could consider a step-out or balcony instead of a porch. Kate asked if we could come back to this point if we needed to be more definitive. Yes.

#4., The values of the surrounding properties would not be diminished: All agree that the values of surrounding properties would not be diminished.

#5., Unnecessary Hardship: Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because : G, 5, a.) i. There is or is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of the provision to the property because: The chair explained that the general public purpose of the ordinance is that you cannot substantially increase the foot print of a building in the shoreland conservation protection zone and is there a fair and substantial relationship between the zoning ordinance provision and the specific application to this property? The chair said there is a very substantial relationship because the shoreland protection zone says that we do not expand over a certain percentage and the reason for that is to protect those areas we consider to be important and that is why it is not a hardship to this property. The ordinance was well thought out. G, 5, a.) ii. The proposed use is or is not a reasonable one because:

Kate stated she feels the proposed use is not a reasonable one because there are alternatives. Troy remarked that that is the key to a variance. We are not saying we are opposed to constructing a livable house, we are saying that the way this applicant would like to do it goes against the ordinance. Merilynn commented that making a smaller porch is an option. The chair explained that the board is free to put terms and conditions upon a requested variance that would meet the terms of the ordinance. Troy asked a question for clarification: "Why did the Selectmen send the applicant to the ZBA? Was it the size of the porch?" Merilynn remarked that it was because of the expansion into the shoreland protection zone. The chair stated that if the expansion was a different size, the arguments for or against the variance might be different and one might be able to end up with an entrance on the downhill side. Troy stated that he would still say "no" on item one but he would say "yes" on items two and four. In order to grant the variance, the applicant must meet each of the 5 criteria. If a single criteria is not met, the variance is not granted.

The chair asked for a motion regarding the Variance. Kate moved to condition the approval of a Variance by allowing an 8' x 8' porch with a roof which would bring the total increase in the footprint to 54.5% of the original grandfathered structure. Troy stated he was not in favor of that motion because he liked to stay with the application as presented without dictating a change. The chair stated that conditions can be added to any request for a variance and pointed out that we need a second in order to discuss. Kerry Osgood seconded the motion. The chair asked Mr. Liggett if he would be agreeable to moving the door off center. Mr. Liggett stated he was "not interested". Kate and Kerry withdrew their motions.

The chair stated that of the 5 criteria for granting a variance, the board found that only one condition (#4) was met; values of surrounding properties would not be diminished. The other conditions were contrary to granting a variance. Under Item 5. a) i, (unnecessary hardship) the chair asked for more clarification of "no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of the provision to the property because". The chair wishes to specifically identify the "because". The purpose of the ordinance is to prevent the encroachment into the overlay district and there is therefore a fair and substantial relationship because approval of this variance

would do substantial injustice to that ordinance provision. The chair then asked for a motion.

Troy moved to deny the application for a variance, seconded by Kate.

The chair read the criteria and the findings of the board.

The board concluded that: #1, Granting the variance would be contrary to the public interest as it would be an expansion to a structure in an area intended to be protected and that the re-orientation of the building increases the snow load impacting folks walking on that road and the town's ability to maintain the road surface. #2, The spirit of the ordinance would be observed because the ordinance was intended to protect the environment and the shoreland protection zone and public safety on the road. #3, Denial of the variance would do substantial justice as there is an existing door on the other side of the building and the possibility to locate another door elsewhere. #4, The values of the surrounding properties would not be diminished by the denial of the improvement. #5, Under unnecessary hardship there is a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of the provision to the property because of the fact that it sits in the shoreland protection zone and the limitations on expansion are intended to protect that zone.

The chair asked for a Roll Call Vote on the motion to deny:

The clerk polled the board:

Troy Simino, aye

Merilynn Bourne, aye

Michael Fuerst, aye

Kerry Osgood, aye

Kate Freeland, aye

Mr. Liggett left the hearing.

The chair announced that the motion to deny the variance was approved unanimously. He will write up the decision tomorrow and get a certified copy to Mr. Liggett and the Selectboard. Troy recommended that we notify Mr. Liggett that he would receive the decision via certified mail as he had already left the hearing.

The chair asked if the board would approve the minutes from the Parry hearing but the board had not received copies in advance and Merilynn neglected to print copies to bring to this hearing so that issue will be taken up at the next hearing when one is required.

William Monett stated that he attended the hearing to learn how to proceed with a request of his own. Merilynn referred him to the state's Comprehensive Shoreline Protection Act as his property on Rt.12-A may be within that overlay.

There being no further business, Merilynn moved to adjourn, seconded by Mike.

Adjourned, 9:03pm

Respectfully submitted,

Merilynn Bourne, Clerk