

Town of Cornish, New Hampshire
Zoning Board of Adjustment
PUBLIC HEARING MINUTES **UNAPPROVED**

July 2, 2026

Case 2026-04

The Zoning Board of Adjustment met on Thursday, July 2, 2026 at 6:30pm at the Cornish Town Office to hear Case 26-04, John & Fatima Grace McSwain for an Equitable Waiver of Dimensional Requirements regarding property located at 523 Town House Road, tax Map 6, Lot 105, owned by Steven Chearino **and** To deliberate and vote to grant or deny a Motion for Rehearing regarding case number 2026-03: James Liggett's request for a Variance and/or Special Exception for his property located at 30 Levitt Hill Road, Map 16, Lot 27. Both requests were denied on June 1, 2026.

Michael Fuerst, Chair, called the meeting to order at 6:30pm.

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

Present for the Public: Steve Burch, Melanie Burch, Chad Simino, Jeff Light, Jared Light, Marie DeRusha

Present for the Selectmen: Keith Beardslee, Jason Bourne, Dillon Gallagher

Present for the Planning Board: William Lipfert

Merilynn Bourne, 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 (June 26, 2026), the date of posting at the Town Office and 12% Solution (June 26, 2026), the date of publishing in Connect Cornish (June 26, 2026).

The clerk then reported that Certified Mailing to abutters and the owner were sent June 20, 2026 to:

Steven Chearino
Town of Cornish
NH Power

Steve Burch
David Fielder
Jake Light
Crystal Sorrell & Mathew Stoltfus

Certified Receipts were received from all but NH Power and Steve Chearino.

The Chair reported that all five ZBA members were present so David Haseman, Alternate, will not vote but may ask questions.

Michael Fuerst, Chair, stated the reason for the hearing and invited the applicants to present their case. Fatima Grace McSwain presented.

Grace reported that she and John McSwain will own the property by August with a complete transfer of deed. They have a lawyer who is working on the deed transfer. She explained that some of the structures on the property have been there for over ten (10) years. She and John did not put up those structures. Grace feels that by granting the waiver, there will not be the burden of a hardship on them. Grace stated that they were not aware of any violations prior to their purchase agreement with Mr. Chearino. Their intent is to improve the land. They do not want to be forever campers or take away from the wetlands or the value of the land. They want to improve it. We are focused on meeting the requirements of the equitable waiver. Grace stated that Mr. Chearino told them that since 2009, he had no knowledge of any notice or enforcement. John McSwain stated that there was a driveway permit from the NHDOT. It was granted in 2008. John stated that the driveway and structures have been there with no complaints or issues until now. He believes they are grandfathered in and he doesn't understand why they have to re-visit anything. Grace added that they have a contract for the deed and a copy been provided to the board. They asked why they had to revisit the issue of the structures. Grace added that they feel they should receive the waiver because the structures on the property have been there for ten years or so without any issue or enforcement and a permit was issued in 2009 for a deck by the stream. John stated again that he didn't understand why they have to re-visit anything. Grace also added that David Fielder and Ryer Jaarsma could attest to the metal canopy and the 10' x 10' structure being on the site for a long time. Grace said she would like to end on the equitable waiver form, primarily regarding the 1st section, and the subset of 3 thereafter. She stated they we're looking to improve the land and not have the current structures there forever. Their long term goal is to improve the land aesthetically. She thanked the board for its time.

The Chair then invited members of the ZBA to ask questions.

Kate Freeland asked a clarifying question regarding the structures. She asked if there was a metal shed that is on wheels. Grace responded that there is a shed on wheels but it is not metal. The metal is the canopy over the RV. Kate asked how many sheds were on the property. Grace responded that there are two sheds besides the RV and the 10' x 10' shed on wheels. Grace added that the 10' x 10' is more like a tiny house than a shed. It has a ribbed plastic roof and it has siding. Kate asked how many sheds were on the property besides the 10' x 10'. Grace said there were two.

Michael Fuerst asked about decks on the property. He understood that there was one by the stream and one under the canopy by the RV. John stated there was one by the stone wall that is deteriorated, one by the stream and one by the RV. Three decks. Michael then asked if their long term plan was to reside there or simply to use the site. Grace responded that their reason for filing for the Equitable Waiver of Dimensional Requirements was because of notices from the Selectboard. Their next step would be to file for a Variance or Special Exception. Michael responded, "For what?". John McSwain interjected that they were at the hearing for the buildings and the driveway. They were not required to state what their plans were for the site. Grace stated she wanted to be transparent about their goals and that they intend to file for a Variance or Special Exception but that at this hearing, they are seeking a waiver. Kate Freeland asked if the waiver was for the structures and Garce responded, "Correct".

David Haseman asked how sewage was dealt with. Grace said there were two outhouses and that one of them was portable and one was left by Mr. Chearino. They are currently using the portable one. John added that the RV also had a toilet. David asked about the port-a-potty being close to the stream, within the setback. John said it was cleaned out once a week, on Saturday. Kate asked how animal waste was handled. Grace said she removes the waste from the property. Grace is not certain how far from the stream the animals are but they are setback from the water. Michael asked if Grace had the requested site plan. Grace stated she didn't have time but she made a sketch to the best of her ability and she handed it to Michael.

The sketch shows a NHDOT approved driveway of 185' to Mill Brook, a 40' x 20' canopy over the RV and a 10' x 10' "Hut on Wheels". No other measurements or structures.

Michael asked how far the structure was from Town House Road. John stated is was fifteen feet or 35 feet from the center line of the road. 33 feet from the center line was per the

state of New Hampshire. Merilynn asked if that was for the driveway and John responded that was for the camper and the other structures. He believes that was the state standard. Merilynn responded that the town has its own setbacks and they have priority over the state's setbacks. John believed the state setbacks were the standard along state roads and Merilynn explained that the town has control over dimensional standards within the town. John stated that the ZBA had approved the setback. Michael stated that the only case before the ZBA was a 2009 request for a deck within the 50 foot setback by the stream which was approved and a request for a Variance for a storage shed which was denied. There were no approvals or denials for the RV roof, the other decks or other structures on that property. John asked why that was not brought up to Mr. Chearino. Troy Simino responded that those issues were brought up to Mr. Chearino multiple times.

John stated that he believes all the structures are grandfathered because it's been over ten years. Troy stated that the town's been complaining since 2009. Troy said it actually started when he was on the select board. Troy added that, "Mr. Chearino failed to respond for years and years and if he is telling you no one ever told him he was in violation he is being less than honest with you." Grace said she understood that and it puts them in a difficult position now and that is why they are asking for the waiver. They had nothing to do with the canopy or the hut on wheels so they would like to ask for the waiver and move forward. Grace reiterated that their intent was to improve the land.

Michael stated that he understood their intent but the issue is that there is a 100 foot setback from the stream and a 30 foot setback from the road and the tax map shows 135 feet at the widest part, the north end by the stone wall; everything else is less than that. Everything Grace and John are asking to do is covered by those setbacks.

John explained that the Shoreland Protection Act has a 50 foot set back from the waterway and he has looked into the regulations and the need for surveys and perk tests for septic and it's all very expensive. He feels he might be able to receive a permit from the state because someone in Plainfield built 20 feet from a brook with a waiver from the Dept. of Environmental Services. Kate stated that the town of Cornish has a 100 foot setback from water. John said he understood that. Kate reiterated 100 feet, not 50 feet. John said, "Right". Merilynn explained that the Water Quality Protection Act actually has a 250 foot buffer with different requirements at 50 feet, 100 feet and 250 feet. She stated that we don't know what classification was assigned to the brook in Plainfield but that the Mill Brook was a Class 4 waterway and Class 4-6 are supervised by the state. Classes 1-3 are not. She further explained that if the town of Cornish denies the use or the structures on a

Class 4 waterway, the state does not get involved. If the town approves a use or structure, then the applicant must get permits from the state and that is a very expensive process.

Michael added that there is also the issue of the Floodplain. The FEMA map shows the location as being in Zone A floodplain. The McSwains would have to prove they are not in the floodplain. John said he understood that and would hire a surveyor. Grace referred to a case in 2016 where Randall Rhodes and M & W Soils Engineering conducted an assessment and Dale Rook and the board at that time approved a variance. Michael asked if that was the case regarding the request for the deck. Grace said "yes". Kate remarked that the deck was approved but that was all that was approved. John offered that the study indicated that the imminent threat of a flood was not there due to the grade of the river. Grace encouraged the board to look at the study.

Michael read the criteria for granting an Equitable Waiver of Dimensional Requirements. Grace asked to review the criteria. Grace stated that for section c. of the criteria, that the physical or dimensional violation does not constitute a public or private nuisance nor diminish the value of other property, they are cleaning up the property and getting rid of motorcycle stuff, plastic signs and Halloween skulls and that is improving the property for the public and neighbors. It may not be the ideal yet but they are still working on it so that covers section c. Grace stated that regarding section d., due to the degree of past construction, our investment made in ignorance of the facts constituting the violation, the cost of corrections so far outweighs any public benefit to be gained that it would be inequitable to require the violation to be corrected, whatever they do in the long term will fulfill that requirement. John added that everything on the site is temporary except the 10' x 10' but that if the town wanted that gone it could be torn up and put in the dumpster. He stated that everything is temporary.

Merilynn replied that the problem is that the lot is non-buildable. When the ZBA Board deliberates, when all of the evidence has been given and the public's had an opportunity to speak, that's the underlying issue for us. It's a non-buildable lot and I don't think Mr. Chearino made that clear to you. John replied, "He did". Merilynn asked John, "He told you that it was a non-buildable lot?" John stated "it was, and if you look at the real estate listings for the last 10 years it was always listed as recreational." Merilynn said yes, it is a camping site, and camping in this town is limited. John reported that the Selectmen took away the permit and they elected to take away the fact that it's a recreational site and now they are stuck in a hole, burdened with all these problems. Merilynn commented that the problem was because Mr. Chearino didn't make it clear enough that he's suffered many violations when Troy was a selectman, and she was a selectman. The current Board of

Selectmen reached out to him constantly to have him correct his violations, and he does not respond. Regarding section d., Kate remarked that past construction or investment had been made with knowledge of the facts regarding violations.

Michael then asked if anyone from the public would like to speak in support of the application. Steve Burch asked if the applicants could receive a temporary waiver. Michael responded that if the 4 criteria were not met, he wasn't certain the ZBA had the ability to say "you're in violation" but we will give you a grace period. Steve then remarked that he worked in construction and that there were national codes, state codes and city codes and the city or town codes have the most control and the zoning board. Melanie Burch remarked about the comings and goings of the RV in the first few years and she wondered if Mr. Chearino understood he was not able to live there because of the zoning regulations. Michael provided the history of the 2006 purchase and the camping permit issued for 30 days with a maximum of 120 days in a year. He added that at some point Mr. Chearino stopped applying for permits but he has never been given permission to live there.

David Haseman asked if the McSwains had a camping permit now. John answered, "No. It has been revoked." Michael asked if anyone else wanted to speak in support of the application. There was no one so Michael asked for anyone who wished to speak in opposition to the matter.

Selectman Jason Bourne spoke. Jason clarified that the selectboard did not notice the driveway as a violation. The board recognized the driveway is permitted by the state. The selectboard did issue a camping permit last October which expired. There was never another permit submitted to the board. Upon further review of the zoning ordinance, campsites must comply with the same setbacks as buildings so if the site is unbuildable, it is also un-camp able, per the zoning ordinance. The Selectboard is charged with enforcing the zoning ordinance.

Kate commented that the error in issuing camping permits because of those setbacks was not noticed for 17 years. It was noticed in 2025 or the end of 2024. Jason replied that the Selectboard issued one permit in October. Kate asked if people had been camping there since 2000. Jason was not sure how many but didn't think it was very many. Kate commented it was not noticed as a violation until recently. Jason said that was correct but that "use" was also an issue and the request for a waiver does not apply to use. John commented that there was no way to address the issues that the selectboard had and Kate replied that removing the structures was the solution. Grace stated they were trying to go through the proper channels, they were seeking to comply. Michael commented that since

there were cease and desist letters to both the McSwains and Mr. Chearino, which was a serious matter, the McSwains may want to seek the advice of an attorney.

John stated that there were several options for the future of the site but he felt they were getting shut down right now. Grace said that this hearing was about the waiver and that was the reason they were at the hearing and they could pursue other corrective actions after this hearing. Merilynn said the fundamental issue is that the lot is non-buildable and Grace and John needed to keep that in mind. The tax card states it's a non-buildable lot. Grace acknowledged. Merilynn continued that Mr. Chearino bought it as a recreational lot and that can not change. Grace responded that she does not dispute that. She does not dispute what is on the tax card or any of that but she asserted they have a right to pursue a Variance. Merilynn said, "absolutely" you have that right.

Michael asked John about the dimensions of the lot. Michael stated that the tax map indicates the maximum width at the far northeastern corner is 135 feet. He asked John if that was accurate. John stated he thought it was 150 feet but that he intended to have it surveyed. Merilynn pointed out that the deed says 135 feet.

Michael asked if anyone else would like to speak. Jason said he had one other piece of information that may be relevant and pertaining to the metal canopy. The canopy does not appear on the tax card as a feature until 2017. John remarked that real estate listings showed it there before 2017. Real estate listings showed it there around 10 years ago.

Michael asked if anyone else wished to speak in opposition. Hearing none, Michael closed the hearing to the public portion and stated the board would begin deliberations. The board may ask questions of the applicants during deliberations. Michael then identified the findings of fact:

- The property is located at 523 Town House Road, Map 6, Lot 105
- The tax card indicates the lot is non-buildable
- It can be used for camping for a 3 month period but not year round
- The property is owned by Steven Chearino
- It is under contract for deed with the McSwains to close in August 2026
- Mr. Chearino was notified that the McSwains filed this appeal
- I e-mailed Mr. Chearino to confirm he was aware the McSwains would be presenting tonight and he replied that was "OK"
- The lot is located within the Water Quality Protection Act zone
- The lot is located within the 100 foot shoreline conservation overlay district

- Both the owner and the applicants state that the structures are temporary
- The 2009 property sketch submitted by the owner shows the widest part of the lot as 150 feet. John McSwain believes that is right but the tax map shows 135 feet
- The Dept. of Transportation's Driveway Permit is dated June 24, 2008

Michael stated these documents would be made part of the file. He added that the driveway permit indicates that the town road right of way extends 50 feet from the center line.

- The deck by the stream was permitted by the ZBA in 2009 but the Variance request for a shed was denied at the same time
- Since then, a shed, an additional deck, a metal canopy over the RV have all been added by Mr. Chearino without the approval of the town
- Mr. Chearino was notified of the compliance issues on November 1, 2010; November 29, 2010; June 24, 2011; December 3, 2011; July 9, 2012
- The property has never been approved for residential use

There followed a brief discussion by the Chair and John regarding the 10' x 10' on a trailer, which John believes makes it a temporary structure, and the RV. Michael asked if they were registered and John said they were not.

Michael asked that the following documents be put in the record:

The ZBA decision on September 14, 2009; the tax card; the MAP 6, lot 105 image; The letters from the selectmen that were identified before; the New Hampshire, DOT, Driveway Permit, dated June 24, 2008; the National Flood Hazard Map that shows the property in Zone A; the letter from the selectmen, to Steven Chearino, dated April 30, 2026; the letter from the selectmen to John McSwain, dated April 30, 2026; the contract for the deed from Steven Chearino to McSwains, dated August 15, 2025; an email from Michael to Steven Chearino, dated June 17, 2026 indicating that the McSwains would appear here, not that they appeared for him, but that any decision here might impact him, along with his response on the same date; the Cease and Desist letters of April 27, 2026.

Michael then opened board deliberations noting that all present but David Haseman would be voting but comments or questions would be welcomed. Merilynn commented that she did not see how the board could approve a request for a waiver because the lot is un-buildable. Kate added that the lot has been in violation of the town ordinance since 2009 and has been noticed over and over and over again. Michael asked if the board would like to review the four criteria for a waiver. Kate felt the board should. Troy said he assumed

that all four criteria must be met. Michael said that was correct. Michael then read through the four criteria in the statute.

Michael read criteria A, pertaining to the failure of the owner or a municipal officer to notice the violation. Kate stated that the owner had full knowledge of the violation because of the ZBA denial of building on the lot in 2009. Michael asked if everyone agreed with that and the members stated “yes”. Michael read criteria B, regarding an error made in good faith. Merilynn commented that there was a lot of bad faith on the part of Mr. Chearino. Troy agreed and commented that clearly Mr. Chearino sought to break the rules by putting the shed on wheels so it wouldn’t be seen as a building. Michael stated that it was pretty clear there was no ignorance of the law by Mr. Chearino. Michael read criteria C, regarding the creation of a public or private nuisance or diminishing the value of surrounding property. Merilynn said she was concerned about the port-a-potties which she believed were within the 50 foot setback from the water way and not anchored. John asked would it be better if they were in the middle of the property in full view? Michael reminded John that he could not be part of the dialogue at this point so John left the room. Merilynn continued stating that they would create a nuisance downstream if they ended up in the brook. She also commented that they were not labeled with the name and phone number of the contact person which was required in the event there was a spill. Michael added that they were in the FEMA Flood Maps Zone A which could constitute a public nuisance and Troy commented that they were also in violation of the shoreland protection overlay and of the Water Quality Protection Act. Michael read criteria D, regarding construction or investment made in ignorance of the facts of the violation where the cost of correction far outweighs public benefit. Merilynn stated that there was no ignorance of the facts. Michael asked if the board agreed and they indicated that they did. Michael stated that it appears that the board agrees that criteria A, B, C, and D have not been met. There followed a discussion regarding violations in existence for 10 years with no enforcement or violation notification. Troy remarked that was not the case and Merilynn agreed. Michael commented that if that was the case, the applicants did not have to prove A and B, they only have to prove C and D. Kate commented that there was a 10 year period of silence by the town, well noticed before and after that period. Do the notices from 2009 to 2012 negate the next 10 years? Troy explained the history of the interactions with Mr. Chearino and his efforts to ignore or obfuscate regarding the violations. He was out of town and unresponsive to letters or calls. He posted the property for sale on and off several times. Mr. Chearino is the one in violation and he is the one receiving a Cease and Desist letter. Michael added that even if criteria A and B did apply, criteria D, construction made in ignorance of the violation, we know that he was noticed in 2009 that he couldn’t build but he continued to add structures. Michael asked if anyone wanted to make a motion.

Merilynn made a motion to deny the application for an Equitable Waiver of Dimensional Requirements because it is an un-buildable lot, it cannot make any of its setback requirements, it's in the floodplain and it is within the Water Quality Protection Act zone. Michael added and Mr. Chearino knew he could not build there. Michael asked if the motion was limited to criteria C and D or was it A through D. Merilynn responded A through D. Troy seconded the motion. Michael called for the vote of the board:

Merilynn Bourne voted AYE

Kate Freeland voted AYE

Michael Fuerst voted AYE

Kerry Osgood voted AYE

Troy Simino voted AYE

Michael reported to the applicants that their request for a waiver was denied and they would be receiving the decision in writing. He added that they had the right to ask for a rehearing and that they could also appeal to the Superior Court but only if they return for a ZBA rehearing which would have to be based on new evidence. Michael encouraged Grace to talk to an attorney.

The next order of business was the approval of the June 1, 2026 minutes. There were two edits for word or spelling correction and then Kerry Osgood made the motion to approve the minutes as presented, seconded by Michael Fuerst. The vote was in the affirmative and unanimous.

There followed a brief conversation with Selectman Gallagher and the Chair regarding the need for improved ZBA files in the town office and administrative assistance when ZBA applications come into the office. Selectman Gallagher asked that Michael come into the Selectmen's office to work out the particulars.

The next order of business was James Liggett's appeal for a Rehearing of his June 1, 2026 request for a Variance and/or Special Exception for his property on Leavitt Hill, both of which were denied. Michael asked that the board start with the Special Exception. Troy commented that it appeared Mr. Liggett wasn't introducing anything new, he was just saying we were wrong. Michael explained that the standard was that he either produced new evidence or proved we were mistaken. Regarding the denial of the Special Exception, he writes that the Right of way and effects of snow removal were both either incorrectly represented by board members or their relevance not examined. Michael asked if anyone agreed with that. Troy stated that he did not, that he knew that house very well and that it literally sits in the road. Troy added that Mr. Liggett's "map" of the setbacks at the site is

100% incorrect. Michael stated he further writes that in 2017 a valid building permit was issued and renewed over a period of 8 years and the redesign of this house is not possible at this point of construction. The board did not agree with that statement. Michael asked if there was a motion to deny the rehearing of the Special Exception. Merilynn moved to deny, seconded by Troy. The vote was in the affirmative and unanimous. Michael moved to Mr. Liggett's request for a Rehearing of the Variance, A.K.A. Appeal from an Administrative Decision, writing that the right of way and effects of snow removal were both either incorrectly represented by board members or their relevance not examined. Michael remarked that it appears we all agree that is incorrect. And then the 2017 building permit issued and renewed over a period of 8 years and the redesign of the house is not possible. Michael reported that we have all agreed those are not accurate statements in the law, that nothing new has been presented and we have not made a mistake. All agreed. Kate made a motion that we deny a rehearing of the Variance request, seconded by Kerry Osgood. Michael called for a vote on the motion. The vote to deny was in the affirmative and unanimous.

Michael then moved to review the minutes of the May 20, 2026 ZBA Hearing. There were no changes so David Haseman, who was present as a voting member of that hearing, moved to approve, seconded by Mike Fuerst. Troy Simino abstained as he was the presenter at that case and Kerry Osgood abstained as she was not present for that hearing. Voting members were Michael Fuerst, Kate Freeland, Merilynn Bourne and David Haseman. The vote to approve was in the affirmative by all four voting members.

There being no further business, the meeting adjourned at 8:25pm.

Respectfully submitted,

Merilynn Bourne
ZBA Clerk