

Town of Brunswick, Maine

DEPARTMENT OF PLANNING AND CODES

MEMORANDUM

TO: Zoning Board of Appeals (ZBA)

FROM: James Dealaman, Principal Planner

DATE: July 3, 2025

SUBJECT: Case No. 25-002; 50 Blackstone Club Rd. – Town’s Summary of Appeal

I. BACKGROUND INFORMATION

The Planning and Development Department received an appeal [See Exhibit A] from David Norton and Melinda Titus (hereafter referred to as “the Appellant”) requesting a variance to Section 4.2.5.B.4.f. of the Town Zoning Ordinance that requires a 20-foot setback from side lot lines in rural area zoning districts.

The Appellant’s property is located at 50 Blackstone Club Road (MP3-26) which is located within the Rural Protection 1 (RP1) Zoning District and Shoreland Protection Overlay – Resource Protection (Steep Slopes), (SPO-RP), Shoreland Protection Overlay (SPO), Rural Protection Stormwater Management Overlay (RPSMO), and Special Flood Zone (FEMA) overlays.

The subject property contains two single family homes (48 and 50 Blackstone Club Road) located at the end of a dirt road. The Appellant has indicated the existing driveway between 48 and 50 Blackstone Club Road accommodates only one parking space and cannot be extended further due to the location of an existing septic system and handicap ramp system located immediately behind it and that the road association does not want property owners parking on the road. The Appellant has described that to provide parking and access for their son, who has a permanent disability, the existing driveway and adjacent space must be utilized. Given the limitations of expanding parking on the existing driveway, the applicant is requesting a variance to facilitate a proposed new driveway within 10 feet of the side lot line on the south side of 50 Blackstone Club Road to park two vehicles parked back-to-back, which otherwise could not be accommodated at the property.

II. STAFF SUMMARY OF CRITERIA:

The submitted appeal requests a variance to the driveway dimensional standard under Section 5.2.7.B.(2) General Criteria for Approval and Section 5.2.7.B(4) Criteria for Approval of a Disability Variance. Staff have attached the Section 5.2.7 Appeals of Administrative Decisions and Variances for the Board’s reference [Exhibit B].

After reading the appeal’s summary, staff suggest the Board review the variance request with the criteria listed under Section 5.2.7.B(5) which aligns more closely with the reasons for the appeal.

Section 5.2.7.B.5.

“Criteria for Approval of a Disability Variance for Vehicle Storage

- a. *The Zoning Board of Appeals shall not grant a Variance pursuant to Subsection 5.2.7.B(1)c. for this purpose unless it finds that all of the following criteria have been met:*
 - i. *The Variance is necessary for the owner of a dwelling who resided in the dwelling and who*

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is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose.

- ii. *The width and length of the structure may not be larger than two (2) times the width and length of the noncommercial vehicle*
 - iii. *The owner shall submit proposed plans for the structure with the request for the Variance pursuant to this paragraph to the Zoning Board of Appeals.*
 - iv. *The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent.*
 - v. *For the purposes of this Subsection 5.2.7.B(1)c, "noncommercial vehicle" means a motor vehicle as defined in Maine Statutes Revised, Title 29-A, Section 101, Subsection 42 with a gross vehicle weight of no more than 6,000 pounds bearing a disability registration plate issued pursuant to Title 29-A, Section 521 and owned by the person with the permanent disability. For purposes of this Subsection, "disability" has the same meaning as a physical or mental disability under Maine Statutes Revised Title 5, Section 4553-A.*
- b. *The Zoning Board of Appeals may impose conditions on the Variance, including limiting the Variance to the duration of the disability or to the time that the person with the disability lives in the dwelling."*

Staff Comment:

- a. For the Board's reference, staff are providing notes corresponding to each of the sections above:
 - i. The Appellant's summary indicates that a proposed driveway is necessary to be able to provide access to an individual with a permanent disability in the existing driveway, which cannot be expanded to add more parking.
 - ii. Not Applicable. The request is for a driveway surface, not a freestanding structure.
 - iii. Not Applicable. The request is for a driveway surface, not a freestanding structure.
 - iv. No documentation has been submitted documenting the person's permanent disability. The applicant may provide additional information prior to or at the public hearing.
 - v. No comment necessary.
- b. Given that variances are tied to the property, to be consistent with the intent of a disability variance, the Board could provide a condition of approval that the variance will expire when a person with a permanent disability no longer resides at the property.

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III. CONDITIONS DRAFTED BY STAFF

- i. The Brunswick Zoning Board of Appeals decision shall be recorded by the owner at the Cumberland County Registry of Deeds.
- ii. When at such time as a person with a permanent disability no longer resides at the property, this variance shall expire and all improved parking areas within 20 feet of the side property line shall be restored to a lawn space by the current property owner.

IV. EXHIBITS

- A. Zoning Board of Appeals Appeal Form
- B. Pages from Zoning Code (Section 5.2.7)