

Appeal of 141 New Rd, Canterbury NH Zoning Board of Adjustment Decision from 2/26/25

1. *Describe how proposed use would not adversely affect the property values in the district:*

The proposed use will be a detriment to property values in the range of 5-12%, which is higher than the prior peer reviewed study provided during the prior meeting of 8% (traffic based). This is supported by inquiry to the following local realtors and appraisers.

“Alternative schools are not value neutral or value improvements to neighboring properties like a well-established and reputable public or private school, since alternative schools serve less than 4% of school age students. The alternative school must be disclosed to a potential buyer, which for the other 96% of school age families can be a deal breaker. Especially in Canterbury, where the median age is 46 and growing, and the average household size is 2.6, the potential buyer who may find this type of school attractive is few and far between.”

Bailey Claremont (Today Realty)

George Brooks (Brooks NH realty appraisal) – supported but with no specific data available

2. *That the proposed use would not adversely affect the health and safety of residents and others in the area and would not be detrimental to the use or development of adjacent or neighboring properties:*

Three of the abutting neighbors' properties are used for firearms recreation and hunting with a firearm, which will be limited by the following:

- **Mike Dumas of the Canterbury Police Department** stated on 2/20/2025 that NH enforces RSA 644:13, which prohibits the discharge of a firearm within **300 feet of any school designated property line**.
- At 169', 243' and 386' to the neighboring houses, 300' restriction would limit existing use of property.



- U.S. gun control legislation signed into law by Pres. George H.W. Bush on November 29, 1990. The law makes it a crime to possess or discharge a firearm in a school zone, with some exceptions (e.g., police officers).

- The Gun-Free School Zones Act forbids the knowing possession of a firearm in a school zone. In this case, “school zone” refers to the property of any public, **parochial, or private school** and anywhere within 1,000 feet of that property. “School” is defined as any institution providing an elementary or secondary education. The penalty for violating the act is a fine of up to \$5,000 and/or imprisonment for up to five years.

3. *That the proposed use would not constitute a nuisance because of offensive noise, vibration, smoke, dust, odors, heat, glare or unsightliness:*

The proposed use will be a nuisance to neighbors and abutters due to outdoor classroom noise and noise generated from increased road use.

The abutting neighbors and I are very conscientious of making excessive noise, since we can clearly hear each other’s outside conversations through the woods. This is often audible to a clarity of understanding the conversation, despite wooded distances 300-800 feet between houses.

To support this, beyond the testimony of neighbors and abutters during the prior board meeting, I have provided a professional acoustic study from a colleague in the defense industry with over 35 years of naval acoustics engineering experience. **(Please see attached)**

4. *That the proposed use would not constitute a hazard because of traffic, hazardous materials, or other conditions:*

Many of New Roads residents value the low traffic on New Road for multiple recreational uses (walking, running, walking dogs, biking, and horseback riding. I’ve even seen sled dog training.) This becomes unappealing and even unsafe with increased traffic (potentially speeding) of non-neighborhood residents that will result from approval of this use. (can confirm no neighbors will benefit from school, as all neighbors with kids signed petition)

Reason for Travel on New Road	Number of Cars (at proposed max)
Employees Commuting to work	4
Students (drop off)	30
Students (pick up)	30
After school program students (drop off)	30 (qty wasn’t clear in documents)
After school program students (pick up)	30 (qty wasn’t clear in documents)
Employees commuting home	4
Services (janitorial etc.)	unknown

5. I’m aware the road agent says this will handle the road traffic. These photos were taken after the road was repaired with grading and gravel the week of 3/17/2025, before the frost has released. I took the photos right after the large diameter gravel added to the road blew a tire on my truck (Wrangler Territory MT light truck tires <1yr old). I am surprised a small 2wd car would be ‘fine’ on this road.

3/20/25



Acoustic Impact Study - Proposed Alternative School at 141 New Road, Canterbury,NH

Overview

The purpose of this document is to address noise pollution concerns with neighboring properties near 141 New Road, the proposed site of the alternative school. There are two noise sources of particular concern - road noise and human factor noise resulting from daily operations of the school. Both issues have been identified in previous planning meetings and dismissed as non-issues. From an acoustics engineering perspective, however, these issues are real and pose significant concern for neighboring homeowners. My professional observations and conclusions are provided herein for consideration.

Background:

Noise exists in two basic forms - transient and steady state. Simply put, transient noise is defined as an acoustic event of short duration, less than a few seconds, such as a car horn or gun shot. The frequency and amplitude, notwithstanding, transient noises are short-lived, often non-recurring, and are most often considered tolerable to the human ear.

Steady state noise, on the other hand, is a recurring acoustic event lasting more than a few seconds - minutes, hours, even days. In this case, frequency and amplitude are critical components in determining whether the event is tolerable or disruptive to the human ear and hence, neighboring homeowners.

Unobstructed sound can travel long distances in air. Natural and man-made obstructions such as buildings, forests and topography can alter the frequency and amplitude of airborne noise. Dense forests with an abundance of soft, leafy growth can absorb certain frequencies while reflecting others. This reflection can propagate back to the source and beyond. Stands of primarily hardwoods, on the other hand, do not absorb but rather reflect and refract noise from the source. This creates both constructive and destructive acoustic interference resulting in a noticeable increase in amplitude of the original noise in the audible frequency ranges.

Observations:

Road noise:

New Road is a non-paved gravel and hardpan rural road with average vehicle speeds under 30 mph. Excluding occasional heavy equipment, large trucks, etc., the primary noise source is a steady state tires-to-road vibration induced acoustic event. Even in the best of conditions, dirt and gravel roads contribute far greater to adverse noise propagation than do paved roads at similar traffic speeds. Given current traffic volume, New Road is noisy, but tolerable. Significant increases in traffic volume anticipated with the daily operations of the proposed school will most certainly add to the existing noise levels.

Human Factor Noise:

The property at 141 New Road consists of a single family home with fairly dense forest to the rear of the property. The land between the home and the road has been cleared of underbrush and smaller trees with the canopy of the remaining mature hardwoods raised approximately 15 to 20 feet. There is no argument that groups of children will create steady state noise, equally high in frequency and amplitude. The physical conditions of the property will do very little, if nothing, to absorb human factor noise and may very well make it worse.

Conclusions:

In my professional opinion, the noises that will be created from the proposed alternative school will be clearly heard by the neighbors and will adversely impact the quality of life for these residents. In addition, the existing layout of this property, both natural and man-made has significant potential to create a natural "amphitheater", thereby further exacerbating noise pollution for nearby residents.

Road noise on New Road exists today. Given the proposed school attendance, an estimated increase in traffic volume upwards of 120 - 150 vehicles transits per day will most certainly have an adverse affect on the quality of life for not only adjacent neighbors, but the majority of homeowners on the entire expanse of New Road.

Qualifications:

The information and opinions I respectfully submit herein are based on my education, knowledge and experience of over 35 years in acoustics engineering and noise control. Having worked with private, commercial and department of defense clients throughout the United States and aboard, I have direct experience in design, development, test and evaluation of numerous engineering programs as well as private and public sector noise pollution projects.

Town of Canterbury, NH
Zoning Board of Adjustment
Date: 2025 March 26
Location: Meeting House
Case No. 2025-1 Special Exception

Board Members Present: Jim Wieck (Chair), Web Stout, Sean O'Brien, Lisa Carlson (Alternate)

Others Present: Brian Gaessler, Jennifer Gaessler, Chris Nicolopoulos, Calvin Todd, Bob Steenson, Beth Blair, Kelly Short, Ellen Bassett, Mindy Beltramo

1. The meeting was called to order at 7 p.m.
2. Lisa Carlson was seated as voting member.
3. Case No. 2025-1 Special Exception
 - a. Brian and Jennifer Gaessler are seeking a special exception as regards property located at 49 Hackleboro Road, Tax Map 103, Lot 15 located in the residential district. The proposed use states "home office" for an electrical business. The application references Article 5, Section 5.3 of the Canterbury Zoning Ordinance.
 - b. Chairman Wieck gave a detailed description as to the conduct of the hearing procedure.
 - c. Brian Gaessler and his attorney, Chris Nicolopoulos, presented the application.
 - i. Mr. Nicolopoulos explained that 7 or 8 months ago, the Gaessler's learned that there was a question about needing a Special Exception (SE) to run a business out of the property.
 - ii. Mr. Gaessler is an electrician and runs a business with four employees. The applicants do not believe that this business is a home business because Mr. Gaessler doesn't meet clients, produce products or hold meetings at the property, or have business products delivered to his home.
 - iii. Mr. Gaessler has a truck that belongs to the business which he drives home at night.
 - iv. One of Mr. Gaessler's employees is his nephew, who comes to the house every morning to carpool to work together.
 - v. There is no sign for the business at the property.
 - vi. To appease the Town, they filled out this paperwork and applied for an SE, but they do not think it is needed.
 - d. Chairman Wieck asked if anyone present wanted to speak in favor of granting the special exception. No one spoke.
 - e. Chairman Wieck asked if anyone present wanted to speak against granting the special exception.
 - i. Bob Steenson (61 Hackleboro Road)
 1. Mr. Steenson explained that he and the other neighbors are concerned about the paved parking lot, parking lot lighting, dumpster in a prominently visible location, an externally illuminated sign (not related to the business), metal warehouse storage building, outdoor storage of vehicles, trailers, and other equipment related to the business.
 2. Mr. Steenson stated that the Zoning Ordinance Section 2.5 defines a home office occupation as being entirely inside the dwelling unit or accessory structure.
 3. Mr. Steenson quoted 2.5.A. which states that the use must be "incidental and secondary to use of the premises for residential purposes". He believes that due to the size of the parking lot, storage building, and quantity of equipment, the business might be the primary use of the site.

4. Mr. Steenson quoted 2.5.D. which states “there is no exterior storage of commercial material or equipment including the parking of more than one commercial vehicle”. He said that on average there are three open trailers, one closed trailer, an excavator, a small tractor, a van, a pickup truck, and currently a pallet of what appears to be metal conduit.
 5. Mr. Steenson continued to quote 2.5.D. which states there can be no “variation from the residential character of the premises.” He grants that the property is neat and clean, but the parking lot, lighting, storage building, and equipment are not residential in character.
 6. Mr. Steenson referenced 2.5.C. which says there cannot be offensive glare. He believes that the lighting as currently installed would not pass site plan review by the Planning Board. He quoted Site Plan Review Regulations section V.F.1. “outdoor lighting shall not glare on abutting properties or on public highways or streets”.
 7. Mr. Steenson believes there is more to this property than a home office. If an SE were granted, then they would need to come into compliance with the Zoning Ordinance, including restoration of the residential character of the property. If it is not actually a home occupation, then they should be here for a variance not special exception.
- ii. Mindy Beltramo (158 Hackleboro Road)
1. Ms. Beltramo expressed concern about the second driveway at the bend in the road. It has stones that get moved by various pieces of equipment and the rocks fall back into the road. She considers this a traffic hazard.
- iii. Kelly Short (107 Hackleboro Road)
1. Ms. Short expressed concern that the overall look and feel of the property is very commercial. Hackleboro Road has been designated by the Town as a Scenic Road. She reiterated the concerns about the size of the paved area, the commercial looking garage, and the variety of vehicles parked on the property.
- iv. Ellen Bassett (100 Hackleboro Road)
1. Ms. Bassett explained that the lighting is bright enough that it casts shadows hundreds of yards away into the woods. She echoed the concerns about the property looking commercial, the size of the parking lot, and the “obnoxious” lighting.
- v. Other discussion
1. Ms. Beltramo asked if the SE is approved, will there be a limit to how many vehicles they can have on the property? Chairman Wieck explained that the applicants would be limited to the testimony provided. In this case, that would mean one commercial truck and the nephew that comes over to carpool. If there was anything that wasn’t consistent with the Zoning Ordinance, that would be a matter for Code Enforcement.
 2. Ms. Beltramo asked what the history of the property was. Jennifer Gaessler explained how she was related to the previous owners and how the property came into their possession.
 3. Mr. Nicolopoulos responded to some of the comments detailed above. He believes the comments don’t address the core issue of if there is a business happening at the location, just that the neighbors don’t like the size of the driveway, the lighting, and the garage material, etc. He said that Mr. Gaessler happens to have a lot of equipment that has nothing to do with his business. There is a dumpster because the Town doesn’t have curbside pickup. The house is built to code and the primary use is residential.
 4. Mr. Stout asked if the vehicles are registered. Two of the trailers are currently not registered, when they were, they were registered to Mr. Gaessler personally.
 5. Mr. Nicolopoulos stated that the lighting isn’t display lighting and the sign saying “Gaessler Home” is no longer lit.
 6. Mr. Gaessler stated that in regard to the rocks covering the driveway, the Town Hall gave him approval to move them when he was hauling dirt.

- f. Chairman Wieck read aloud a letter from Hannah Sullivan of 41 Hackleboro Road.
 - i. Ms. Sullivan stated her support of home offices as defined in Section 2.5 of the Zoning Ordinance, but questioned if a Special Exception was necessary in this case and if the application was filed properly.
 - ii. Chairmen Wieck read this letter as in favor of the application.
- g. Chairman Wieck asked if anyone present wanted to speak against granting the special exception with information that hasn't already been stated.
 - i. Ellen Bassett (100 Hackleboro Road)
 - 1. Ms. Bassett acknowledged that the light on the "Gaessler Home" sign had been taken down. She said that her objection to the lighting is not personal preference, the lighting that is currently in place looks like security lighting for a commercial equipment yard.
 - ii. Mindy Beltramo (158 Hackleboro Road)
 - 1. Ms. Beltramo questioned if the letter from Hannah Sullivan was in favor or against the application. Chairman Wieck said the Board would decide how to interpret it.
 - iii. Calvin Todd (11 Barnett Road)
 - 1. Mr. Todd asked about the excavators that have business labeling/signage on them, does that count towards the number of business vehicles allowed?
 - 2. Mr. Nicolopoulos stated that the excavators are personally owned even though they have stickers for the business on them. Mr. Gaessler has never used them on a jobsite and they were delivered to the house. He has put stickers on them because he is proud of his work.
- h. Chairman Wieck asked if the Board had any further questions for the applicant.
 - i. Mr. O'Brien said he was satisfied with the answers provided regarding the outside equipment, the lighting, and the signage. Mr. Nicolopoulos clarified that the streetlight was still up, but the light on the sign has been taken down.
 - ii. Chairman Wieck confirmed that the only piece of equipment actually associated with the business was a single truck parked outside, there is no business activity conducted in the shop, and no employees work at the property (just the nephew who comes in the morning to carpool).
 - iii. Mr. Gaessler said that the paved area is a driveway not a parking lot. There is a box truck/van that is used for the business and parked in the garage. The truck he drives is personal and used to drive to/from work. It does have logos for the business, but he puts logos on everything. If this SE is granted, he would be limited to one commercial truck.
 - iv. Mr. Stout didn't think that this should be considered a home occupation since Mr. Gaessler isn't doing any work at home so most of Section 2.5 doesn't apply.
 - v. Chairman Wieck thought this use is close enough.
 - vi. Mr. O'Brien also didn't think this is a home occupation and questioned what the Gaessler's are even applying for.
 - vii. Mr. Nicolopoulos stated that he and the Gaessler's also don't think this is a home occupation, but he believes the Town told them to do the process anyway because one of the neighbors is on the Selectboard.
- i. Chairman Wieck closed the hearing. The Board then deliberated.
 - i. Mr. O'Brien felt this SE could be granted.
 - ii. Chairman Wieck said the Board could consider granting the SE, but they need to go through each of the requirements and the Gaessler's didn't do that. Mr. Stout said that he did cover a few of them. The Board decided that they could ask the applicant to address each requirement.

- iii. Ms. Carlson questioned if an SE for home occupation could be granted if what Mr. Gaessler is doing isn't a home occupation. She suggested that if this wasn't votable, then this could just be considered an informational session.
 - iv. Chairman Wieck felt that it is close enough to a home occupation since there are vehicles and it wouldn't be unreasonable that they could be conducting office work.
 - v. Mr. Stout compared the situation to a carpenter who lives at home but has a shop elsewhere; that would not be considered a home occupation.
 - vi. Mr. O'Brien felt that granting this SE gives the applicant the option to operate as a home office while also restricting them to operate under this criteria.
 - vii. Mr. Nicolopoulos was asked to address each of the relevant criteria. He first stated that they would prefer the situation not be considered a home occupation because no business is being conducted on the property. He then addressed specific parts of the ordinance.
 - 1. 2.5.A. The Gaessler's live in the house, that is the primary use of the property. There is some parking for a car or two.
 - 2. 2.5.B. Sometimes the nephew parks his car there, but no employees work on the property ever.
 - 3. 2.5.C. There is no offensive noise, traffic, vibration, smoke, dust, odors, heat, glare, or unsightliness.
 - 4. 2.5.D. There is no exterior storage of commercial material or equipment. The excavator and trailers are personal and they will remove the labeling.
 - 5. 2.5.E. There is plenty of parking, only the nephew tends to park his car there.
 - 6. 2.5.F. It is not a commercial zone.
 - 7. 8.1.A. The use of the property for business is minimal and will not affect the neighborhood. It is an appropriate location and there are no affects on health and safety. The business is not a nuisance, it would be in the spirit of the ordinance to approve the SE, and the use presents no hazard.
 - viii. Mr. O'Brien made a motion to grant the application in case 2025-1 for Brian and Jennifer Gaessler as they have met the minimum requirements for a Special Exception. Mr. Stout seconded the motion. All in favor by roll call, motion carried.
 - ix. Chairman Wieck reminded the applicants that there is a 30-day period where someone can appeal. The approval was based on the provided testimony and if any changes are made, they will need to come back to the Board.
4. Chairman Wieck made a motion to approve the minutes for the ZBA meeting on February 26, 2025 for Case No. 2024-7. Mr. Stout seconded. All in favor by roll call, motion carried.
5. Appeal for Case No. 2024-7
- a. Timothy Entwisle of 146 New Road submitted an appeal for Case No. 2024-7 on March 24, 2025 (within the 30-day appeal period).
 - b. Kal explained that Mr. Entwisle was unable to attend the third hearing (2/26/25) for case 2024-7 and sent a statement via email to the Zoning Board the night before the hearing (2/25/25). Kal did not check that email account on 2/26/25, so the letter wasn't seen and presented at the hearing. When they discovered the error the following week, they contacted Mr. Entwisle and let him know he had 30 days to appeal the decision if he wished to.
 - c. The Board read copies of the appeal letter.
 - d. There was discussion about if this appeal needed to be publicly noticed. The Board decided that since testimony wouldn't be accepted anyway, noticing this discussion was unnecessary. If they decided to re-hear the case, then noticing would need to be done.
 - e. There was discussion about if anything brought up in the letter warranted a rehearing. The Board leaned towards denying the appeal because Mr. Entwisle had the opportunity to present

this information at the first two hearings and testimony at the third hearing was strictly limited to new information regarding the items requested by the Board at the second hearing.

- f. The Board decided not to vote on the appeal at this meeting because not enough members who voted at the 2/26/25 hearing were present.

6. Administration

- a. Ms. Carlson brought up unexcused absences. The Board discussed that if someone can't attend, they need to let Ms. Carlson know. Chairman Wieck will bring this up at the next meeting and send out an email.
- b. The Board discussed making Scott Herrick a full member to replace Calvin Todd (since he is now on the Selectboard). Chairman Wieck will get in contact with Scott.
- c. There was discussion about if Brendan should still be an alternate now that he is a full member of the Planning Board. He legally can be, but it might be too much of a time commitment. Either way, the Board needs to find more alternates.
- d. Jim Wieck needs to reup since his term ends this year. There was discussion about how to stagger terms so that most of the Board isn't up at the same time. They decided that Jim Wieck and Scott Herrick should be given 3-year appointments ending in 2028, the new alternate should be given a 1-year appointment ending in 2026 and then reupped for 3 years after, and that Lisa Carlson should reup now so she can also be up in 2028.
- e. Ms. Carlson make a motion to reelected Jim Wieck as Chair. Mr. O'Brien seconded. All in favor by roll call, motion carried.
- f. Even though there are currently no applications waiting, the Board will meet next month anyway for housekeeping items.
- g. Chairman Wieck made a motion that Scott Herrick be made a full member of the Board, on the condition that he accepts. Lisa seconded. All in favor by roll call, motion carried.
- h. Kal clarified that the ZBA no longer needs to post notice of hearings in the Concord Monitor because the Town consulted with counsel and decided that normal ZBA and Planning Board hearings don't need to be posted in the newspaper. Posting on the website and at the Sam Lake House was determined to satisfy the posting requirements.

7. Adjournment

- a. The meeting was adjourned at 8:10 p.m.

Minutes submitted by Kathleen McKay, Administrative Assistant

Minutes of Meeting
Board of Adjustment
Canterbury, NH
23 July 2025

Present were: Chairman Jim Wieck, Sean O'Brien, Christopher Evans, Web Stout (via Zoom) and Lisa Carson, Alternate. Scott Herrick, Gary Spaulding and Randi Johnson were excused absences. Also present were: Kal McKay and Joe Lopez.

Chairman Wieck convened the meeting at 7 PM advising those present this is a work session meeting of the Board of Adjustment and no formal hearings will be heard. Chris moved to accept as written the Minutes of Meeting from 25 June 2025. Web seconded the motion, and the board voted to unanimously approve the minutes as written.

The first order of business to address is a request for a rehearing regarding Case No. 2024-7 that regards a school located at 161 New Road. In the original hearing, questions were raised by Tim Entwhistle. The Board reviewed those questions at its previous meeting. The Board had one outstanding item it wanted to get guidance on which was whether or not there would be any impact to the property owners' rights, particularly abutters, particularly regarding the use of firearms. Chris asked for clarification that this is not an appeal, but a request for a rehearing because Mr. Entwhistle felt there was information that we didn't consider. The Board felt all the items presented were not new information save one. The Board had questions about that last one and wanted to seek guidance as to whether the presence of firearms near a school impacted abutters' rights. The issue is a school zone. Discussion ensued about the number of people who have weighed in on the issue. Kal advised the Board of associated RSAs to the matter and their interpretations. The school district attorney advised it would be up to the town and police department to determine if a school zone would be created by the presence of this small, private learning environment. Kal read to the Board Mr. Entwhistle's letter noting there are discrepancies in interpretations and understanding of related RSAs to this issue. No local authority is going to designate this a school zone. Extensive discussion by the Board continued until Chris moved to not grant a rehearing because there is no new correct information. Sean seconded the motion, and the Board vote was a unanimous decision to deny a rehearing.

The next agenda items, Right to Know and Code of Conduct, were opened for discussions. Chris said he'd read them through and what he got out of was that we can disagree, but it is best not to be disagreeable. Kal clarified the necessity, not from this Board, but from others that we adopt a Code of Conduct for our meetings and hearings and that at each start those present be reminded they are publicly posted for all to see, read and adhere to.

By-Laws are being recrafted, Kal attended NHMA trainings to realize things that need to be added before they can be reviewed by boards and committees and adopted. We will be required to hold two public meetings so the public can comment. We can vote to adopt at a third meeting after any changes are made. One of the things that needs correcting is the procedures for hearings and readings aloud of supporting documentation for applications or presentations. It needs formalizing. Chris asked if it could be put in a script form. If someone needed to conduct a hearing, they would have a written script to read to ensure the integrity of a hearing is met. She will do this. When she has completed the draft, it will be sent out to the whole board for review and comments. Chairman Wieck will be getting sworn in on Tuesday 29 July.

There was no further old business. No one had anything to bring to the meeting. A reminder was given about the All Boards meeting to which all boards, commissions and committees' chairs are specifically invited as well as the members and the public, Thursday, 4 September at 6 PM in the Meeting House. At that time the Code of Conduct as well as any other topics will be discussed. Chris made a motion to adjourn, Sean seconded the motion, and the board voted to unanimously adjourn the meeting at 7:25 PM.

Respectfully submitted,

Lisa Carlson, Clerk
Board of Adjustment