

TOWN OF ESSEX DEVELOPMENT REVIEW BOARD
REGULAR MEETING
MINUTES OF MEETING
June 4, 2026

DEVELOPMENT REVIEW BOARD: (*In person*): Ian Carroll, Chair; Sharon Zukowski, Vice Chair; Nick Martin; Hubie Norton; (*Online*): Trefor Williams; (*Absent*): Stephanie Bixby, Clerk.

ADMINISTRATION and STAFF: Kent Johnson, Planner; Brittany McGregor, Planning Technician.

OTHERS PRESENT: Danielle Butler; Bryan Currier; Benjamin Frye; Caryl Jaques; Tracey Payea (*Online*): Cheryl Van Epps.

1. CALL TO ORDER

Chair Carroll called the meeting of the Town of Essex Development Review Board to order at 6:30 P.M.

2. AGENDA ADDITIONS/CHANGES

None.

3. AGENDA APPROVAL

Board Member Norton made a motion, seconded by Board Member Zukowski, to approve the agenda as written. The motion passed 5-0.

4. PUBLIC TO BE HEARD

a. Comments from Public on Items not on Agenda.

None.

5. BUSINESS ITEMS

a. Announcement of DRB decision on applications for 235 River Road and 123 Old Colchester Road
Chair Carroll noted that the DRB held private deliberations on both of these applications and approved both applications 4-1 (with Board Members Carroll, Bixby, Norton, and Martin approving and Board Member Zukowski dissenting).

Board Member Zukowski submitted the following dissenting opinions in writing to add to the minutes:

123 Old Colchester Road Site Plan Amendment – Minority Opinion

I voted against approval of this application and write separately to state my reasons for the record based on steep slope and Town Plan conformance findings.

Steep Slopes: ZR 5.6(B)(2) and (B)(1)

ZR 5.6(B)(2) states: "Development shall be prohibited on slopes of 20 percent and steeper due to the likelihood of environmental damage." That prohibition is clear and unqualified, and I do not believe this application complies with it.

The development is only possible by disturbing and eliminating those slopes. The regulation prohibits development on steep slopes; it does not limit that prohibition to one particular method of disturbing them. Furthermore, there is no finding. The staff report does not find that ZR 5.6(B)(2) is satisfied. It states only that removal of the steep slopes "aligns with previous approvals." That is not a finding of conformance. If the majority's position is that this standard does not apply or is met for some affirmative reason, that reasoning should be in the record.

Approximately 255,000 cubic yards of ledge will be removed, replacing forested slopes with a constructed industrial plateau. ZR 5.6(B)(1) requires that the site be planned to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. That standard deserved genuine analysis, not a reference to prior approvals.

The 2024 Essex Town Plan reinforces this position. Page 64 states that on slopes of 20% and steeper, construction shall be avoided due to the likelihood of environmental damage, and that even on slopes of 15–20%, construction is discouraged. Page 16 states that land shall be conserved and development avoided in particularly vulnerable areas such as unstable slopes. The prohibition in ZR 5.6(B)(2) is not an isolated provision; it reflects consistent, mandatory policy expressed through both the Zoning Regulations and the Town Plan. If the applicant believes that strict compliance would cause an undue hardship, the proper avenue is a variance under ZR 7.5.

Town Plan Conformance: General Policy 2

The findings cite Specific Policy 2(S).1 that new industrial development shall occur within existing industrial zoning districts. That standard is met. But ZR 5.6(A) requires conformance with the Town Plan as a whole.

General Policy 2, page 10, states: "Economic Growth shall be diversified." The word "shall" is mandatory. This application adds three warehouse buildings to a site where three have already been approved, six in total, all built to warehouse specifications with tractor-trailer loading docks. The applicant confirmed at the hearing that all structures are designed to function as warehouses regardless of tenant. I cannot make findings based on hypothetical future uses. A finding of conformance with General Policy 2 cannot be made on this record.

I voted to deny this application because the proposed development does not comply with ZR 5.6(B)(2) and because a finding of conformance with General Policy 2 of the Town Plan cannot be made on this record.

235 River Road Minority Opinion

On Steep Slopes — ZR 5.6(B)(2):

ZR 5.6(B)(2) states that development shall be prohibited on slopes of 20 percent and steeper. That prohibition is clear and unqualified. The staff report finds the impacts "acceptable" on two grounds: that some slopes may have been created by prior development, and that the DRB has allowed such impacts in similar cases. Neither basis is sufficient.

The regulation draws no distinction between manmade and naturally occurring slopes. And the staff report itself acknowledges it is "unclear" whether the eastern slopes are naturally occurring. Uncertainty about a slope's origin is not a basis for ignoring the prohibition. The applicant's own engineer described slopes of approximately 67% far beyond the 20% threshold. Past case-by-case decisions did not amend ZR 5.6(B)(2) or create a standing exception to it.

If the applicant cannot meet this standard, the proper avenue is a variance under ZR 7.5, which requires showing that strict compliance causes unnecessary hardship, that the hardship is not self-created, and that the relief is the minimum necessary. That process was not followed here.

On Topography — ZR 5.6(B)(1):

ZR 5.6(B)(1) requires the site to be planned to retain, insofar as possible, the natural contours and to conserve the natural cover and soil. Removing existing woodland, grading for the building and parking area, and working the slopes behind the building constitute substantial topographic change on a constrained site. The characterization of those changes as "minimal" understates their actual scale.

The 2024 Town Plan supports both findings. Page 64 states that on slopes of 20% and steeper, construction shall be avoided, and on slopes of 15–20%, construction is discouraged. Page 16 directs that

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land shall be conserved and development avoided in vulnerable areas including unstable slopes. ZR 5.6(B)(2) is not an isolated provision — it reflects consistent, mandatory policy in both the Zoning Regulations and the Town Plan.

For these reasons, I voted to deny this application.

6. APPROVAL OF MINUTES

a. Approve minutes from May 7, 2026

Board Member Zukowski made a motion, seconded by Board Member Martin, to approve the minutes of May 7, 2026, with the following amendments: add to Line 81: “Board Member Zukowski asked about the steep slope recommendation, noting that the Town’s regulations address steep slopes and that the Board may have been inconsistent with applying that. Planner Johnson acknowledged the difficulty of applying the regulations as written and the distinction between manmade and naturally occurring slopes that has developed in practice. Board Member Zukowski stated that the steep slope impacts at the site do not conform with steep slope regulations and that if the Board intends to allow these impacts, the appropriate mechanism would be a variance.” Replace Lines 236 to 333 with “Chair Carroll read aloud a statement that was not on the agenda that he had prepared regarding Board Members publicly discussing DRB decisions. The statement asserted that once a vote is approved, Board Members should not publicly discuss DRB decisions or express opinions about them, as doing so could undermine the process and expose individuals, the Board, and staff to public comment and criticism. The statement characterized this as something that was understood when Board Members joined the DRB. Board Member Zukowski challenged this characterization, stating that Board Members were not informed of such a policy when they joined, and that she believes Board Members retain the right to express a minority opinion, particularly given that the DRB is a quasi-judicial body. She noted that the Selectboard considered a similar issue and ruled that a Board Member may speak to the reasons for their dissent. Board Member Norton asked for clarification as to whether a minority opinion is not allowed. Chair Carroll clarified that he is not prohibiting minority opinions but is outright prohibiting public elaboration or disagreements after a final vote. Board Member Zukowski stated she would like a legal opinion from the Town Attorney on this question. Board Member Martin indicated that the question requires further discussion. No vote was taken.” The motion passed 5-0.

7. PUBLIC HEARING

a. **Site Plan Amendment and Conditional Use - 1 David Drive LLC is proposing to add three food trucks to the parking lot at 1 David Drive (Parcel ID 2-047-003-000) located in the Retail Business (B1) District.**

Board Member Norton made a motion, seconded by Board Member Martin, to open the public hearing. The motion passed 5-0.

Planning Technician McGregor began by describing the proposed site plan amendment and conditional use application. She said that the proposal is to add three food trucks, picnic tables, and a portalet to the rear of the parking lot. She said that at the time of applying, the Applicant didn’t have any food trucks in place, and this will allow the Applicant in the future to have food trucks. She said that it aligns with the Town Plan’s goal for the area, and is not anticipated to have a negative impact on traffic. Board Member Norton asked if there was consideration for the definition of “food truck”, and Planning Technician McGregor said that there is no standard definition, but that the space itself will limit the number of food trucks that could fit in it.

Danielle Butler spoke on behalf of the Applicant. She said that this property has been vacant for a long time and that they are looking to bring life and more business activity back into the area. She said that they are asking for three food trucks but that could change depending on the size of the food trucks that use the area, and that they have adequate parking and seating for them. Board Member Norton asked if the food trucks will come and go or whether they will be stationary, and Ms. Butler said they are ideally looking for food trucks to remain on site for longer periods of time and that they will be seasonal. Board Member Martin asked about sanitation stations for vendors, such as a water supply. Ms. Butler replied that food trucks generally have standard policies and procedures for sanitation, but they could easily add hand sanitizer stations. Planning Technician McGregor noted that food trucks are regulated by the State, which requires that their water supplies and sanitation systems are based on their size, and that most of the food preparation must be conducted off-site in a certified food prep kitchen. Board Member Martin asked more detailed questions about the site rendering, and Ms. Butler described the barricades that could be used to manage pedestrian traffic. Board Member Zukowski expressed concern about certain types of food trucks and excess smoke negatively impacting adjacent apartment buildings. Planning Technician McGregor said that this is something that can be reviewed and addressed when the food trucks begin to use the space. Chair Carroll asked if the food trucks would be generator-powered or whether electricity would be installed, and Ms. Butler replied that the electricity throughout the entire building was recently upgraded and that it has a new GFCI outlet on the back side of the building that could potentially be used as power, but that they would ideally be looking for food trucks that have their own power. Board Member Norton confirmed that there would not be alcohol served at the food trucks.

Board Member Zukowski made a motion, seconded by Board Member Williams, to close the public hearing. The motion passed 5-0.

Board Member Martin said that the Board should consider the temporary barriers for pedestrian access to ensure that there is a safe flow of traffic. Board Member Norton said he is unsure about how to define the space that is to be utilized and expressed concern about space creep and encroachment. Chair Carroll said the trucks need to fit within the overall space as laid out, and said the dimensions of this space are defined in the renderings and layout and should be adhered to. Board Member Williams asked if there should be a time limit for how long truck can remain in the area, expressing potential concern that a truck could be parked in the same area for several seasons. Chair Carroll asked about this, and Planning Technician McGregor said that each truck would have a seasonal application and a seasonal zoning permit, and that the duration of a stay depends on the type of food truck and how portable they are. Board Member Norton said they should clarify whether food trucks can also encompass food trailers and other mobile food service vehicles. Chair Carroll said that from his perspective, most food trucks are a stepping stone for a brick and mortar business, and said that they could consider a condition of approval to make the seasonal permits time-limited for seasonality. Board Member Norton noted that an example of a food truck on Sand Hill Road was parked there for multiple seasons, and asked if there is harm in having food trucks parked on a premises through the winter, but said they could consider a condition of approval for use, rather than limiting the amount of time the truck is parked in a given location. Chair Carroll said they could have conditions to limit use to specific seasons and also limit the amount of time a food truck could be parked in a given location across seasons (e.g., three years). Planning Technician McGregor said that most food trucks would also have a lease term with the property owner that would limit the duration of their remaining in one location. Board Member Martin agreed with Board Member Norton about the DRB not limiting the amount of time that a food truck can remain on a space, given that they likely have an arrangement with the property owner or manager outlining those limits separately.

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Town Planner Johnson added that some food trucks have winter operations, and recommended leaving those decisions up to the food truck and property manager to administer.

Chair Carroll made a motion, seconded by Board Member Zukowski, to approve the site plan amendment and conditional use application as presented. The motion passed 5-0.

b. **Site Plan Amendment and Conditional Use** – Shane Bissonette is proposing to add one mobile food vendor to the parking lot at 135 Sunderland Way (Parcel ID 2-036-010-000) located in the Retail Business (B1) District.

Board Member Zukowski made a motion, seconded by Board Member Martin, to open the public hearing. The motion passed 5-0.

Planning Technician McGregor began by describing the proposed site plan amendment and conditional use application. She noted that property owners have the option for a temporary 7-day permit to pilot certain operations, such as a food truck. She said that Al's French Frys has opted for that permit in this location to pilot a food truck. She said that they have a small area in between the entrance on Pinecrest and Joshua Way. She said that they have added barriers to block cars from turning into that location, that there is a mobile food vendor in those 3-4 parking spaces and accompanying picnic tables. She said that this aligns with the Town Plan for this district and is proximal to the residences and businesses in that area. She said that staff engaged with Fire Chief Cole to discuss concerns around traffic flow and pedestrians. She noted that they have not restriped the lines as of today, but that it is on the list of required activities and is actively being worked on. She said that Chief Cole performed a site visit and is satisfied with how the Applicant has configured traffic and parking. She noted a condition of approval related to restriping the crosswalks and stop bars.

Board Member Zukowski asked about a bike rack in the plan, and Planning Technician McGregor noted that there is not a bike rack in that area. Board Member Norton asked about the hatched areas that are indicating outside storage, and Planning Technician McGregor noted that the store has reviewed the plan and is comfortable with having the food truck use some of the designated outside storage space. She said that this is an approval that would go with the land, in the event that other mobile food vendors would like to use this space in the future. She noted that they have gotten three consecutive temporary permits. Chair Carroll asked about barriers between the mobile food vendor area and the outdoor storage area. Planning Technician McGregor said that the seating is away from the outdoor storage area and that there are barriers between parking and seating and the mobile food truck. Board Member Norton asked about the lack of portalets, and Planning Technician McGregor replied that the landowner (Lowe's) is agreeable to letting people use their facilities. Board Member Norton asked if the hours of operation for the Al's French Frys mobile vendor are the same as those of Lowe's, and Planning Technician McGregor confirmed this. Board Member Norton asked about crosswalks, and Planning Technician McGregor replied that there are existing crosswalks that will be restriped and will address any Public Works concerns.

Benjamin Frye spoke on behalf of the Applicant. He said that the Applicant enrolled in the Lowe's food truck program and they are currently proposing what Planning Technician McGregor articulated. He said that this is the most safe location on that site for this type of food truck arrangement. He said that they have a 27' trailer and it is being managed by Lowe's.

Board Member Martin asked about sanitation and whether this arrangement falls under the State's Department of Health regulations, and Mr. Frye replied that food is prepared off-site and they have

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permits through the brick and mortar restaurant to prepare food. He noted that this food truck is well-established and has been in other locations in Chittenden County. Chair Carroll asked about the barrier between the outdoor storage and the food truck area, and Mr. Frye responded that on his last visit he saw that there were flower planters and cones as a barrier but they are open to adding Jersey barriers if the DRB thinks this is appropriate.

Chair Carroll made a motion, seconded by Board Member Martin, to close the public hearing. The motion passed 5-0.

Board Member Norton expressed concern about the lack of portalets, even though Lowe's is offering the use of its facilities. He also asked about increased traffic. He acknowledged that Public Works reviewed this and is satisfied. Chair Carroll pointed out that this is administered by Lowe's and that if they had concerns about increased traffic to their facilities they would address it. Board Member Norton was satisfied with this point. Board Member Martin said he would like to see a condition of approval to include an emergency point of contact articulated on the truck for after hours. Chair Carroll said he has a minor concern about the location of the mobile food truck next to outdoor storage and large pallets of materials, and said he would like to see a condition of approval that an additional adequate barrier be included to the northerly side of the mobile vendor area.

Chair Carroll made a motion, seconded by Board Member Martin, to approve the site plan amendment and conditional use application with the additional findings from the DRB of adding emergency contacts for after hours on the mobile food vendor, additional adequate barriers to the northern side of the mobile vendor area for pedestrian safety, and for Proposed Condition #5, adding "for approval" prior to "detailing how they plan to address pedestrian traffic" . The motion passed 5-0.

- c. **Site Plan Amendment** – Little One's University is proposing to remove three parking spaces and expand the existing playground area to accommodate additional children at the daycare located at 71 Center Road (Parcel ID 2-057-052-000) in the Residential Business (RB) and Business-Design Control Overlay (BC-D) Districts.

Chair Carroll made a motion, seconded by Board Member Martin, to open the public hearing. The motion passed 5-0.

Chair Carroll acknowledged that he has used Little One's services in the past but did not believe this presents a conflict of interest. Other Board Members concurred.

Planning Technician McGregor began by describing the proposed site plan amendment application. She noted that half of the building in question is a daycare facility and the other half is two residential apartment units. She said that the daycare facility is proposing to take over one of the residential apartment units, which will increase the number of children they can serve to 45. She said that State regulations require a certain amount of outdoor space for the number of children served and that this facility needs to create additional outdoor space to meet that requirement. She said that the facility is proposing to remove three parking spaces to expand the existing playground, that the Zoning Administrator and staff from the Department of Public Works reviewed the space to ensure that it isn't too close to the road, and they had no concerns. Board Member Norton asked about the ADA parking space and the ramp, and Planning Technician McGregor said that the suggestion is to move the ADA parking space over and use the current ADA parking space as the flat aisle to access the ramp.

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Caryl Jaques and Tracey Payea spoke on behalf of the Applicant as the owner and business manager of Little One's University, respectively. Ms. Jaques said that they are currently licensed for 30 children and are increasing that number to 45. She said that they are proposing to remove three parking spots to increase the outdoor recreational space for the number of children they are anticipating serving. Board Member Martin asked if the area is currently paved and if the pavement will be removed. Ms. Jaques replied that they would like to keep the pavement because they use it for bicycles and tricycles. Board Member Martin asked if they have plans to replace the fencing, and Ms. Payea said they are hoping to replace it with white vinyl to be visually striking and better able to demarcate the area.

Board Member Zukowski made a motion, seconded by Board Member Martin, to close the public hearing. The motion passed 5-0.

Board Member Zukowski noted that this is a high traffic and accident area and expressed concern about increased traffic impacts, given the 50% increase in the number of children being served. Board Member Norton pointed out that the staff report states there will be a net reduction in impervious surface, but said that the Applicant would like to keep the pavement, so the staff report should be corrected. He said that given the lack of current traffic data, the Board doesn't have a good sense of what the traffic impacts would be, and he acknowledged that Public Works did not highlight traffic impacts as a concern. Chair Carroll said that traffic concerns are valid, but that he did not see significant concerns with what is being presented in this application. Town Planner Johnson pointed out that to partially offset the increased traffic, one of the residences is being removed.

Board Member Zukowski made a motion, seconded by Board Member Norton, to approve the site plan amendment as presented. The motion passed 5-0.

d. **Minor Site Plan Amendment** – S&R Properties is proposing to add a 30' x 50' addition to the existing planing mill at 82B Jericho Road (Parcel ID 2-008-028-000) located in the Medium Density Residential (R2) and Floodplain Overlay (O2) Districts.

Board Member Norton made a motion, seconded by Board Member Martin, to open the public hearing. The motion passed 5-0.

Planning Technician McGregor began by describing the proposed minor site plan amendment application. She said that this Applicant has a planing mill that they would like to expand. She said that there is a water pipe that runs underneath the site and that Public Works has comments about removing that. She noted that there are no changes to parking, access, or site circulation, that it is a large lot that is not near the floodplain so there are no flooding concerns.

Bryan Currier of O'Leary, Burke, and Associates spoke on behalf of the Applicant. He said that the proposal is for a small addition to the business's planing mill. He confirmed that the building addition does not require an amendment to their active permit and requested that Condition of Approval #9 be struck. He said that it is a very small addition to a large lumber yard and they don't anticipate any impact on traffic volume and requested that Condition of Approval #10 be struck.

Board Member Norton asked if the mill has its own water supply, and Mr. Currier replied that it is connected to the Town's municipal water line. He said the water main was previously extended for fire suppression and sprinkler systems, but that the water line is maintained by the property.

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Board Member Martin made a motion, seconded by Board Member Zukowski, to close the public hearing. The motion passed 5-0.

Board Member Martin made a motion, seconded by Board Member Norton, to approve the minor site plan amendment with the removal of Condition of Approval #9 and #10 and reordering the remaining Conditions of Approval. The motion passed 5-0.

8. OTHER BUSINESS

Chair Carroll publicly thanked Board Member Williams for his service on the Development Review Board and noted that the Development Review Board will be reduced to five members after this meeting. The Board discussed having a more in-depth discussion about dissenting opinions at an upcoming Development Review Board meeting. Board Member Zukowski asked that the Operating Procedures be reviewed at a future meeting.

9. PROPOSED EXECUTIVE AND/OR DELIBERATIVE SESSION

- a. All meetings have a potential for an executive and/or deliberative session per 1.V.S.A. §313 & 312 (e)(f).

10. READING FILE

- a. DRB Application Schedule

11. ADJOURN

Board Member Martin made a motion, seconded by Board Member Zukowski, to adjourn the meeting. The motion passed 5-0 at 8:21 P.M.

Approved this _____ day of _____, 2026
(see minutes of this day for corrections, if any)