

Town of Farmington
Zoning Board of Adjustment Meeting Minutes
Thursday, March 3, 2022
356 Main Street-Farmington, NH

Board Members Present:

Elmer "Butch" Barron, Chairman
Bill Fisher
Joe Pitre
Bob Morgan
John Scruton, alternate

Board Members Absent:

John Aylard, Vice Chairman

Others Present:

Paul Zuzgo, Land Surveyor, Prospect
Mountain Survey
Ann & John Titus, abutters

BUSINESS BEFORE THE BOARD:

Call to Order:

Chairman Barron called the meeting to order at 7:04 p.m.

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Chairman Barron seated alternate John Scruton in John Aylard's absence.

Review of Minutes:

December 2, 2021 – No errors or omissions

Motion: (Fisher, second Morgan) to accept the minutes as written passed 4-0-1 (Scruton abstained).

Any Other Business Before the Board: None

NEW CASES:

Applications for a Variance by Scott Williams, Tax Map U-06, Lot 35: A request has been made for a Variance under Section 2.04 Urban Residential District; Letter (B) Space and Bulk Standards. The applicant, Scott Williams of Alton, NH 03809 is requesting a Variance to encroach into the rear setback. The rear encroachment is for a proposed deck. The property is located on Mechanic Street in the Urban Residential District.

Land Surveyor Paul Zuzgo, authorized agent for the applicant came forward and told the board that Mr. Williams is requesting a Variance from the rear setback for the deck. He said the lot is pretty small and with the required setbacks it doesn't leave a lot of room.

He said they are also still encroaching to the front setback but that zone has a stipulation that

says you can be in the same relationship as it was and there was a trailer there that encroached into the front and into the side. He said the old dilapidated trailer had been there for quite a while has been torn down.

Mr. Zuzgo said Mr. Williams is proposing to construct a 20' x 40' split level ranch style house on the lot and in order to get another egress through the back they need a deck. He said they figured a deck would be better than a bulk head which would be concrete like the bulkhead on the side which falls in the side setback but they did fit the house in there pretty tight.

Mr. Scruton asked if there was any issue with maximum coverage of the lot in that zone.

Mr. Fisher said he didn't think there was a maximum permeable (porous) surface requirement for that area.

Mr. Barron said he did not know if Farmington has standards on that or not. He said most of the small lots in the downtown area couldn't meet any sort of standards anyway.

Mr. Pitre said he is just going to make it as far as the building is concerned.

Mr. Barron said they were already encroaching on the front and the ordinance is a little lax in saying something along the lines of as long as it meets the relationship to the street.

Mr. Zuzgo read that the zoning ordinance says "where existing buildings have a uniform setback relationship to the street any new building or alteration of an existing building shall maintain the existing relationship. Any accessory buildings shall not be located close to the front lot line."

Mr. Zuzgo said the overall plan shows the houses next door and their relationship to the front and one of them is on the right-of-way. Every one of them is within the front setback he said.

He said the plan shows where the mobile home was and the location for the proposed house. Chairman Barron asked for questions from the board and hearing none asked if the abutters present wished to speak to the matter.

Ann Titus said there was an issue with her fence and they put their fence as the existing fence that was on the applicant's property.

John Titus said when they had the surveyor there they just wanted the line in between the 2 buildings and not at the end of their property so he had the surveyor give marks for that. He said the fence just mirrors what was there and he didn't know if that is his property line or not.

Mr. Zuzgo said he surveyed the whole block and tied in everything he could find on the block and there aren't a whole lot of monuments out there.

Mr. Titus said he didn't have a problem with this.

Mrs. Titus asked if she has to move her fence.

Mr. Zuzgo said he did not know but the fence is on Mr. Williams' property. He showed the location of the fence on the plan to Mr. & Mrs. Titus and said the fence just has to move back to the boundary line and they'll have that all marked.

Mr. Titus said he disputed the property line when he wanted to put the fence in and for that one he just had the contractor mirror what was there.

Mrs. Titus said they want to be fair and the fence has been there for a long time.

Mr. Titus then said if they give him the markings he will move the fence.

Chairman Barron then interjected that they didn't have an objection to the Variance and the fence issue is between them not with the board.

Mrs. Titus asked what the deck would look like.

Mr. Zuzgo said it would only be 8' x 10' with just enough space to sit out there with side stairs for an egress.

Mrs. Titus asked if this was going to be a rental property.

Mr. Zuzgo said it would not be a rental property and Mr. Williams plans to sell it.

Chairman Barron then asked the board to go through the facts supporting this request.

(Applicant responses are as stated on the Variance application).

1). The Variance will not be contrary to the public interest:

Applicant's response: The proposed new house will improve what was there. The lot is small and when you take setbacks out it doesn't leave much room. The lot is non-conforming to begin with. The variance would allow development on an existing building lot.

Board's response: Consensus of the board was it would not be contrary to the public interest.

2). The spirit of the ordinance is observed:

Applicant's response: Yes. Granting the variance would allow the construction of a residential house on a pre-existing non-conforming lot. The deck would provide another egress location on the second floor.

Mr. Zuzgo said the basement would be finished but they would be going down into the ground 4 ft. instead of 8 ft.

Board's response: Mr. Scruton said there is a high water table there.

Mr. Barron said they are going to have to address the water because they have no place to pump it to.

Mr. Zuzgo said there will be foundation drains and there is a drainage ditch out back and a drainage easement in the corner.

Mr. Barron said they'd be pumping ground water that isn't there now and they're going to have a problem flooding other people's backyards. He said they would be pumping ground water not just the water off of the roof so they are going to be pumping 24/7 from about now until May.

Mr. Zuzgo said even if they changed the house it will still need an egress out back.

Mr. Barron said he wasn't arguing that and was just warning him that he would have a problem that would affect the lots next to him and around him. They already have a flooding problem there and your pumping water constantly is not going to help he said.

Mr. Scruton said it's not part of the variance application but common sense says you can't put a basement in there even a 4 ft. basement.

Mr. Zuzgo said that is an issue he was sure Mr. Williams would change the house but the footprint would still be the same.

Mr. Barron said they can't pump to the town drainage because that's already way too small for

what it does.

Mr. Scruton said the storm water separation requires that you not do that and you can't put it the sewer system or in the other one either.

Mr. Pitre said there is a ditch between the Titus's and the next lot.

Mr. Zuzgo pointed out a ditch he said goes from the rear of the lot down to the brook that comes in from another road and the location of a big drainage easement on the site plan. He suggested that the applicant could be restricted to having no basement.

Mr. Barron said they could restrict him to the basement floor not being below the seasonal high water table.

Mr. Zuzgo asked if they know what that is.

Mr. Scruton said a test pit would tell them that.

Mr. Zuzgo said the soil maps might have something where it's been in town for so long but it changes and gets more impervious.

Mr. Scruton said if they change the design of the house it will change what they need for a deck and they really can't go very deep into the ground.

Mr. Zuzgo said they could just put in a frost wall and a crawl space or put the house on a slab. He said it still will have to have a deck and even stairs would encroach into the rear setback.

Consensus of the board was this would not violate the spirit of the ordinance.

3). Substantial justice is done:

Applicant's response: Yes. This variance would allow the construction of a single family home on a non-conforming lot improving what was there.

Board's response: Mr. Scruton said the point could be argued that a different configuration house could be built without encroaching (on the setback).

Mr. Barron said the proposed house is already only 24 ft. wide and if it were any narrower it wouldn't be salable and he might as well go back to a single-wide mobile home.

Mr. Pitre said the only encroachment is the deck.

Mr. Barron said the front encroachment is no worse than apparently what was there before.

Mr. Scruton said it is a little worse than what was there before but is not worse than what else is on the road.

Mr. Barron said and the ordinance allows for that.

The board agreed substantial justice would be done.

4). The value of surrounding properties are not diminished:

Applicant's response: Value would not be diminished. The variance would allow a single family building on a non-conforming lot of record.

Board's response: Consensus of the board was to agree the value of surrounding properties would not be diminished.

5). Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

Applicant's response: Due to the size of the lot makes it difficult to fit a reasonable house size without meeting setbacks.

Board's response: Mr. Pitre said it's a very tough lot. He said we are hurting badly for housing and we about 20,000 units short.

Mr. Fisher said this is also the beginning of making Mechanics Street more habitable.

Mr. Scruton said this is good overall and that it meets the 5 tests.

Mr. Barron said the Planner has recommended that they include a condition requiring the applicant to get a new driveway permit even though they will probably make him do that anyway so they can get it on the record because he is changing the driveway.

Mr. Zuzgo said it's basically in the same spot but is reconfigured.

Mr. Scruton said it's moved enough that he needs a new driveway permit.

Mr. Barron recommended if they make a motion to grant the variance that they stipulate that they don't go below the water table with the basement.

Mr. Zuzgo said that will require a test pit on the lot to figure out what the water table is.

Mr. Barron said he thought that would be good business on his part to start with.

Mr. Scruton added especially if he plans to sell it.

Mr. Zuzgo asked if that means no habitable building below the water table.

Mr. Barron said he might be able to prove him wrong and it's dry at 12 ft. deep but he was pretty sure it's not.

Mr. Zuzgo said the applicant is the builder and he'll tell him they'll just put foundation drains in.

Mr. Pitre asked where he would put the water.

Mr. Barron said that is his concern.

Mr. Scruton said the floor of the basement cannot be below the seasonal high water table.

Mr. Barron said they have the right to develop the lot but they don't have the right to impact the neighbors and there would be an impact to the local area if they put a sump pump in there.

Mr. Scruton said even worse they run the sump pump out in the road and then it freezes.

Motion: (Fisher, second Scruton) to approve the Variance for Tax Map U-06, Lot 35 in the Urban Residential Zone for Scott Williams with the following stipulations: 1). the floor of the basement will not be below the seasonal water table; 2). A new driveway permit is required passed 5-0.

Adjournment:

Motion: (Morgan, second Fisher) to adjourn the meeting passed 5-0 at 7:32 p.m.

Respectively submitted

Kathleen Magoon, Recording Secretary



Elmer "Butch" Barron, Chairman