



Town of Farmington
Planning and Community Development Department
356 Main Street
Farmington, NH 03835

FARMINGTON ZONING BOARD of ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: Board of Selectmen's Chambers, Municipal Building, 356 Main Street, Farmington, NH
Meeting Date: Thursday – March 7, 2024
Meeting Time: 7:00PM

1. Pledge of Allegiance
2. Approval of the Prior Minutes
 - November 2, 2023, Meeting Minutes
3. Old Business
4. New Business
 - A. Public Hearing for an Equitable Waiver of Dimensional Requirements by Donald Howard, Tax Map U12, Lot 13. A request has been made for an Equitable Waiver of Dimensional Requirements under Table 2.04 (B) Space and Bulk Standards to allow a replacement shed within the 15ft minimum side setback. The property is in the Urban Residential District.
5. Any Other Business Before the Board
6. Adjournment

John Scruton, Chairman
Farmington Zoning Board of Adjustment

Memo

To: Zoning Board of Adjustment
From: Kyle Pimental, Director of Planning and Community Development
Date: 2/29/2024
Re: March Zoning Board Meeting

Good evening,

Please note the following communication from the Town's Planning and Community Development Department.

1. Pledge of Allegiance
2. Review and Approval of November 2, 2023 Minutes
3. Old Business
4. New Business
 - A. Public Hearing for an Equitable Waiver of Dimensional Requirements by Donald Howard, Tax Map U12, Lot 13. A request has been made for an Equitable Waiver of Dimensional Requirements under Table 2.04 (B) Space and Bulk Standards to allow a replacement shed within the 15ft minimum side setback. The property is in the Urban Residential District.
 - a. Noticing Requirements

All public hearing requirements, as set forth by RSA 676:7, have been met. This includes notifying all abutters that were listed in the application by certified mail, as defined by RSA 21:53, stating the time and place of the hearing not less than 5 days before the date fixed for the hearing. The abutters list was reviewed by the Planning Secretary for accuracy prior to the letters being mailed out. A copy of the abutter letter is included in the packets. A public notice of the hearing was also placed in the Seacoast Media Group newspaper (in both hard copy and digital formats) not less than 5 days before the date fixed for the hearing.
 - b. Equitable Waiver of Dimensional Requirements

When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:

 - i. That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;
 - ii. That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;

- iii. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and
- iv. That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

Waivers shall be granted under this section only from physical layout, mathematical dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

c. Planning Department Comments

As explained in the applicant's narrative, the prior shed had existed in this location (within the side setback) for many years. The Code Enforcement Officer did not know of or receive any complaints until the applicant began replacing the shed, in which a formal complaint was filed by a neighbor.

- 5. Any Other Business Before the Board
- 6. Adjournment

Upon receipt of this correspondence, if any ZBA member has additional questions or would like to follow up with staff, please contact Kyle Pimental at kpimental@strafford.org.

Respectfully,
-Kyle Pimental, Director of Planning and Community Development

Town of Farmington
Zoning Board of Adjustment Meeting Minutes
Thursday, November 2, 2023
356 Main Street-Farmington, NH 03835

Board Members Present:

John Scruton, Chairman
Joe Pitre, Vice Chairman
John David Aylard, Clerk/Secretary
Bill Fisher
Bob Morgan

Others Present:

Tracy Hayes, applicant
Janet Hackett, abutter

1). Call to Order:

Chairman Scruton called the meeting to order at 7:01 p.m.

2). Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

3).Review of Minutes:

September 7, 2023- Public Session Minutes- No errors or omissions

Motion: (Pitre, second Morgan) to approve the minutes as written passed 4-0-1 (Aylard abstained).

4).Old Business: None

5). New Business:

Public Hearing for a Variance by Tracy Hayes, Tax Map U12, Lot 9. A request has been made for a Variance under Table 2.04 (B) Space and Bulk Standards. The applicant is requesting a Variance for relief from the maximum new residential density standards that require one unit per acre and be allowed to convert two existing offices into two apartments, where only one is permitted. The property is in the Urban Residential District.

Chairman Scruton read the above public hearing notice aloud and said all public hearing requirements have been met for noticing and this request for a Variance is a specific restriction in the Zoning Ordinance that they're asking to be able to not apply in this situation. He asked if the applicant wanted to come forward and make a presentation.

Applicant Tracy Hayes came forward and said the building is very new and it's already set up as an office space within each unit. She said there is an upstairs unit and a downstairs unit and within each one there is already an office space so what they are looking to do is to convert the two which are completely separate with no connections between the two.

She said they are looking to convert each unit into a one bedroom apartment and the lot is 1.6

acres so they are technically .39 acres short of being a 2 acre lot to have the 2 different units. Mr. Pitre asked what the neighborhood looks like and about the character of the neighborhood. Ms. Hayes said the neighborhood is almost entirely residential.

Mr. Pitre asked for the past use of this building.

Ms. Hayes said in the very recent past a plumbing/heating business was in one unit and upstairs there was an electrical company. She said they didn't do any business out of there they just housed their equipment and vehicles there. She said previous to that it was a store at one point, a pizza place at one point and Mrs. Hackett just informed her that previous to that it was a single family home.

Mr. Scruton asked if this building was converted from a single family home.

Ms. Hayes said no the building was torn down in 2020 and rebuilt.

Mr. Scruton said he noticed she is planning to continue a commercial use so there would be a commercial use and 2 residences on the property.

Ms. Hayes said the garage is completely separate from the 2 units there isn't even a door or anything to connect the two. She said they are looking to potentially have some type of commercial use in the 2 bay garage something fairly quiet so it doesn't disturb any tenants.

Mr. Pitre asked if that is on the right hand side of the building when facing it from the street.

Ms. Hayes said yes.

Mr. Scruton asked Ms. Hayes if she wanted to make a presentation on the 5 tests you have to pass in order to have a Variance approved.

Ms. Hayes said she wrote it all down and she didn't have anything to add.

Mr. Scruton read aloud the 5 tests and the applicant's response as stated on the Variance application as follows:

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

Applicant response: The neighborhood is largely residential and we seeking to only add one extra unit in a nicely built fairly new building to allow more rental properties in Farmington.

Mr. Scruton said he assumed she meant residential rental properties.

Ms. Hayes said that's correct.

2). The spirit of the ordinance is observed:

Applicant response: The proposed use is only increasing the residential max by one unit (1 bedroom) so the spirit of the ordinance is still observed.

3).Substantial justice is done:

Applicant response: This proposal will increase the very limited rental market in Farmington in a newly well built building.

4). The value of surrounding properties are diminished:

Applicant response: The neighborhood is mainly residential and we are converting a commercial property to mixed use to allow for residential use. As the area is residential there would be no diminished value in neighboring properties with only an additional one bedroom

apartment.

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

Applicant response: The property is currently commercially zoned with 1.61 acres. The property needs an additional .39 acres to increase the residential units by one additional one bedroom unit (no additional acreage is available). The general public purpose of the ordinance prohibition is to prevent a large number of residences in a small physical location. We are only looking to increase it by one 1 bedroom apartment and therefore is no fair and substantial relationship. As we are simply increasing it by 1 small apartment the proposed use is reasonable.

Mr. Scruton asked if she wanted to add anything to that.

Ms. Hayes said if it were to stay commercial for them it would be a hardship in that it's very difficult to find commercial tenants. She said they are looking to convert it to residential to help increase the residential market and be able to rent out an apartment.

Mr. Scruton said it seems that they want it both ways-they want to keep the commercial and add a residential.

Ms. Hayes said they are not keeping the offices as commercial those 2 they want to completely convert to residential and they are just looking to keep the garage as commercial. She said the garage is not built as a home garage and she couldn't tell them how high the ceilings are and guessed they are probably more than 2 stories high. I don't know what other use we would have for that property other than as a commercial location she said.

Mr. Pitre said he would like to hear from Mr. Fisher on what the proposed zoning changes are for the coming year from the Planning Board.

Mr. Fisher said the zoning changes they're proposing are still in the "infant" stage. He said they are trying to hammer out some things and have it ready for public hearings in December. He said they are looking at increasing the density of properties in the Rural Residential from one unit per acre to one unit per half acre.

He said it has been noted that affordable housing is a big issue within the state of NH and looking at surrounding towns they're all changing their density requirements and this gets us more into keeping with surrounding towns but only the Urban Residential and the Rural Residential not in the Agricultural Residential. He said that's all in the future and it has to be voted on at Town Meeting and they will see how the public feels about it.

Mr. Pitre asked what the requirements were when zoning first came to Farmington in 1979 and if he knew what the density was.

Mr. Fisher said he was not here at that time but for the past 10 years or so it has been 1 unit per acre in the UR.

Mr. Pitre said prior to that it was 1 unit per half acre per residence actually and that seemed to work well. He said the legislature has been looking at this very closely and they appropriated

\$100 million for housing because we have such a shortage and we don't have the workforce and the workforce we have is getting up in age and aging out of that. He said they have to attract outside persons to the state because if we don't who is going to do the plumbing and the electrical and a lot of things we normally get done those people are already retired and it's a big problem.

He said the Gov. and the legislature are looking at that and trying to fix that and some of the proposed zoning would be curtailed in these towns and the state would take over that role because the state enables you to do things and that's something to be thinking about.

Mr. Fisher said it's noted that the population of Farmington is decreasing and one of the reasons is not enough housing. He said the Rt. 11 Corridor Study which there's going to be a meeting on later in Nov. has shown that around 2,000 people are leaving Farmington daily that live here and going to other towns to work and then coming back home again and as much as 6,000 people are bypassing Farmington on the Rt. 11 corridor and going to other towns.

Mr. Scruton said they were wandering a little ways away from the topic at hand although ever since the shoe factories closed most people moved to other communities and commuted to other communities for work. He asked if there any other comments/questions from the board. Hearing none he opened the hearing to public comments at 7:15 p.m.

Pearl Lane resident Janet Hackett said Ms. Hayes said she would like to do a business in those garages and she was curious what the business might be.

Ms. Hayes said she didn't have a business in mind. She said being mindful of the tenants living in the same building she was look for something fairly quiet so she got a list of allowed businesses and uses from the Planning Director so things like a church or a store or things like that are all allowed but she hasn't put out any feelers to see what could possibly go there until she came here so she definitely didn't have anything specific in mind.

She said they do own other rental properties and one of the other properties she has owned in the past was a garage or a mechanic's business and she is very mindful of how loud and busy that can be so that wouldn't be anything she is specifically looking for.

Mr. Scruton said for example in Barrington there's a set of business condos that basically are huge garages where plumbers, electricians and others store a lot of their material in their truck at night because of zoning issues where they live. He said he thought some kind of activity like that would be quiet but Mrs. Hayes' point about not allowing car repair in those businesses would make sense.

Ms. Hayes said they have a lot of connections and in the past somebody said some type of storage in there so that would be one of the things they would consider.

Mr. Scruton asked if she would be willing to have some type of restriction on the future businesses in there as far as not being something that results in a lot noise.

Ms. Hayes said absolutely. She said they are landlords for other units currently as well and that's one of the things they always consider is tenant enjoyment of the premises.

She said the downstairs unit has a handicapped ramp and wide doors as it was built to be handicapped accessible. She said when they add a shower to the bathroom to make it an apartment there just isn't enough room to make it a fully ADA accessible apartment for the handicapped but they're mindful that somebody may want to use the ramp or be staying in the apartment not going out to work all day and it's definitely something they'd not want to have them sharing a wall with somebody who's very loud.

Mr. Scruton said they received 2 letters from abutters and read aloud the first letter from David and Patricia Sprague: "As abutters to 83 Charles St. my wife and I would like to not allow a variance. We are unable to attend the meeting."

Mr. Scruton said this does not contain the reasons he does not want a variance to be allowed. He said the other abutters Frank and Pamela Lord wrote and addressed each of the 5 points of the variance that need to be made and read each of those points into the record as follows:

"We oppose the above request for variance as totally and completely in disregard of the ordinance that specifies one single dwelling unit per acre in an Urban Residential District. This increased density is out of line with the surrounding neighborhood. There is no reason to go against this ordinance other than to profit the developer. And that is not a reason. Further it fails to satisfy the ZBA decision criteria for the granting of a variance.

1). The Variance Will Not Be Contrary to Public Interest- it most certainly will. The essential characteristic of the upper Charles St. section of Rt. 153 is one of lightly wooded open space and un-crowded single family homes scattered throughout the neighborhood. Incorporating an apartment building into an otherwise established neighborhood of single family homes would interrupt the consistent tenure of the existing structures, jeopardize the rural quiet atmosphere and set precedence for further development that this very ordinance was created and intended to prevent.

2). The Spirit of the Ordinance is Observed-Although the deed of record indicates the property consists of 1.60 acres less than .5 acre is inhabitable. The remaining property consists of sloping wetlands suitable for wildlife only. Therefore doubling the allowed density only serves to constrict what is already insufficient square footage necessary to be consistent with surrounding properties.

3). Substantial Justice is Done - No gain to the general public will flow from this project.

4). The Values of Surrounding Properties are not Diminished- The property barely meets the minimum side setback to our property and increasing the density of the property will further compromise the essential character of the locality and more importantly negatively impact the value of our property as well as that of our neighbors.

5). Literal Enforcement of the Provisions of the Ordinance Would Result in an Unnecessary Hardship- Not at all. The zoning ordinance allows for a single dwelling unit to be built on the location and the applicant was aware of this when the property was purchased. With proper variance approval the building can be converted to residential and the developer is free to avail

herself of that opportunity. It's our hope that the Board of Zoning Adjustment will find our concerns reasonable and act to preserve what has been a quiet, quaint and desirable urban residential neighborhood by denying this request for a variance".

Mr. Scruton asked if there were any comments from the board.

Mr. Morgan asked if this building was converted into an apartment if they'd have no problem with it. He asked if it was a single family building with 4 people living in it or 2 apartments with 4 people living in it what is the difference.

Mr. Scruton said that is a good rhetorical question.

Ms. Hayes said there would only ever be 2 one bedroom apartments there is no space to create them to make it any larger than that.

Mr. Scruton asked if she would agree to that stipulation- two 1 bedroom apartments.

Ms. Hayes said yes absolutely.

Mr. Fisher said in the past looking at putting in apartments on various pieces of property around town one of the biggest drawbacks has been parking and in this case there is more than ample parking on this piece of property. He said he agreed that there is no difference between one unit with 4 people or 2 units with 2 people because it's not going to affect the parking. He said for 2 units you need 1.5 parking spaces per unit and in this case there are about 10 spaces for 2 units.

Ms. Hayes said in the front and there is ample parking in the back and there are 2 entrances to every space. She said there 2 entrances to the upstairs and 2 entrances to the downstairs and there are 2 entrances to the garage and the spaces are marked so no one would argue over parking.

Mr. Fisher said the Lords said the variance will be contrary to public interest but he does not agree with that. He said it's currently a business area that had 2 businesses in there and that created traffic, noise, etc. and it's now going back to a residential use which seems to be a lower impact on the surrounding area and returning it to what it was originally years ago which was a residential area.

He said she is requesting 2 units, it's 1.61 acres so it's less than a half acre under size. I don't see that as being detrimental because the footprint of the building is not changing and there are no changes to the property other than rehabilitating the inside of these 2 office spaces into apartments so it should have no effect on the amount of land that is there. It's already been granted to use an undersized acreage for 2 businesses I can't see the harm in putting in 2 apartments knowing that apartments are needed in this area he said.

Mr. Pitre said the .39 shyness from the 2 acres is important. He said it's a small amount and its possibly the best use of this property the way it is proposed so that's his stance.

Mr. Scruton said a year from now that might not be an issue but today they have to consider what the current zoning is.

Mr. Pitre said it's still shy and whenever they have an encroachment on the setbacks we look at

the size of the encroachment and some they have denied because there is too much encroachment in that setback or in case the size of the lot. He said that makes it .6 per residence so he thought it was a moot point.

Mr. Fisher said a precedence was not set 2 or 3 months ago when they granted permission for a variance off of Grondin Drive for 8 units to be on 3 acres. He said they granted that variance and this is less of an impact than that was.

Mr. Aylard said but those were all pre-existing and they weren't changing anything.

Mr. Fisher said this is basically pre-existing they're not changing the footprint they're just rehabbing it and redeveloping it into 2 rental units.

Ms. Hayes said the only thing that needs to be changed is a shower added in the bathroom.

Mr. Fisher said even though there are some small setbacks to this but it's nothing more than what they have granted in the past.

Mr. Pitre said variances allow a little difference from what the actual regulations say.

Mr. Scruton said the purpose of the Zoning Board is to grant reasonable relief to the ordinance if in fact these 5 tests are met.

Mr. Fisher asked if they need to take each one of these and give their reasons under the new state laws.

Mr. Scruton said yes. He then called for a motion that the variance:

1). Will not be contrary to the public interest:

Motion: So moved by Mr. Fisher and seconded Mr. Morgan.

Mr. Fisher said they are returning it from a business back to a residential area which is in keeping with the area so it's only improving the area by taking out the businesses and putting in residential units. He said as far as possible business use in the future that is not what this variance is requesting they're just requesting the 2 residential units.

Mr. Scruton said he was going to recommend that at the end that there be 2 stipulations which Ms. Hayes has agreed to at this point that help on this not being contrary to the public interest. He said there are 2 one bedroom apartments and the business that will go in there will be something that is quiet.

Mr. Fisher asked if they can legally make stipulations. He said he knows she has agreed to it but asked if they can legally put that as a clause to their final decision.

Mr. Scruton said he believes they can because if this was going to be two 3 bedroom apartments that would be a whole different story as far as the public interest goes. He said it's within the current footprint, it's one bedroom (per apartment) and he would not vote in favor of it being in the public interest if it was different than what is proposed here.

Mr. Fisher said if it was different than what is proposed here then his reasoning would be completely different but putting that in would be a Planning Board stipulation not a variance stipulation. It would be up to the Planning Board to say you can or cannot do this.

Mr. Scruton said he disagreed but they could talk about that when they get there and he just

wanted to make that point.

Mr. Aylard said he agreed the commercial aspect of it doesn't allow it to be all residential.

Mr. Pitre said the primary interest is it's going from commercial to residential.

Mr. Scruton said the primary use is going to be residential according to the statements that were made at this point. He said if she was putting a casino with lots of noise in the 2 car garage that would be a whole different story.

Mr. Fisher said that would be a Planning Board decision and that would be granting 2 principal uses which is allowed by the Town's zoning ordinance now per property so it can be a business and residential on the same piece of property. But what that business is, is up to the Planning Board to say not us he said.

Mr. Scruton disagreed but that's not the vote they are taking right now. He said he was going to put the stipulations on in the final decision.

Mr. Pitre asked what the common practice has been and what they did with the downtown.

Mr. Fisher said they put a stipulation on before and they got in trouble for it. He said when they told that one property owner he couldn't dig deeper than "x" amount of feet because he was going to hit the water table that was a Planning Board issue not the Zoning Board. We're only here to grant the variance not put restrictions on how that property is used if they grant that variance.

Mr. Scruton said he would grant the variance based upon on what is being presented which is 2 one bedroom apartments and a quiet commercial use.

Mr. Fisher said a commercial use is not being put and the variance request is for 2 residential properties in the district and it says nothing about a business.

Mr. Scruton said she is keeping business in the garage.

Mr. Fisher said that's a side issue but it is not what they're here for tonight. We're here to grant or deny a variance to put in 2 residential units. He said that's what the variance request is the variance request is not 2 residential uses and 1 business use.

Mr. Morgan asked if they granted this variance if it would make the entire property residential so she would have to go back to the Zoning Board.

Mr. Fisher said no but in the future she may decide to do a business use that is 2 uses on 1 property which is allowed by the zoning ordinance but the restrictions on what goes in there is a Planning Board issue not us.

Mr. Pitre said it's in the variance application and it says "and keeping the garage as commercial space".

Mr. Scruton said it's 2 offices to 2 one bedroom apartments and he thought they could specify that because that's what she asked for and 1 commercial space and pointed to it on the application.

Mr. Fisher said that's not what the public hearing is. He said the public hearing is to request relief from the maximum new residential density standards that require 1 unit per acre and be

allowed to convert 2 existing offices into 2 apartments where only 1 is permitted. That's why we're here tonight nothing to do with business that may be on the property in the future he said.

Mr. Scruton said they will vote on that at the end and right now they are voting on public interest. He read the motion was the variance would not be contrary to the public interest and called for the vote.

Vote: the motion passed 5-0.

2). The spirit of the ordinance is observed:

Motion: So moved by Mr. Pitre, seconded by Mr. Morgan.

Mr. Scruton asked if Mr. Pitre's argument was that .39 acres is a small amount and that there is residential in the area.

Mr. Pitre said yes.

Vote: the motion passed 4-1 (Aylard opposed).

3). Substantial Justice is Done:

Motion: (Fisher, second Morgan) that substantial justice is done;

Mr. Fisher said the reason is that we're gaining residential rental properties in a town that needs residential rental properties so there is a gain to the general public.

Vote: the motion passed 5-0.

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

Motion: So moved by Mr. Pitre, seconded by Mr. Fisher.

Mr. Pitre said the character of the neighborhood is not changed significantly.

Mr. Scruton said there was no evidence presented of a reduction in value. He said there was a general statement made by Mr. Lord that it negatively impacted the value but no evidence to support that statement.

Vote: the motion passed 5-0.

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

Motion: So moved by Mr. Pitre, seconded by Mr. Morgan.

Mr. Pitre said again the .39 acres comes into play it's a very small amount and there's plenty of parking. He said they have watched other properties go into disarray because of commercial use and this is probably a good use for the property and it fits more into the residential use within the neighborhood. He said it could possibly cause a hardship if they don't approve it because it's already been the effort to rent it out to commercial property but obviously there's no use there now.

Mr. Scruton said the hardship is the uniqueness of the property as it currently exists as far as it is reasonable what is being proposed.

Mr. Fisher said one of the requirements is that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of

that provision to the property and that the proposed use is a reasonable one. He said there is a substantial relationship between the general public in that we're gaining residential rental property and it's a reasonable use of the property actually returning it back to what it was before it was used for commercial. I agree there would be a hardship created if we did not grant the variance he said.

Vote: the motion passed 5-0.

Chairman Scruton asked if there was a motion to grant the variance as requested.

Motion: (Pitre, second Morgan) to approve the variance as requested;

Mr. Aylard said in order to keep it in the spirit of the ordinance he tends to agree with Mr. Scruton that some stipulation needs to be made on the garage that it stays...that if they are going to pigeon hole this into family that it keeps in that theme either storage or something low impact to the community.

Mr. Fisher said that would be making a motion for a future use that we don't even know is going to happen. He said she has not made up her mind whether or there's going to be any business use in there and to tell her she can't do something that might happen in the future would be contrary to her interest and the Town's interest.

He said she may decide to take that garage when she does some study and make it into a one bedroom loft apartment and put in a staircase and a loft on the top of it and put in a third unit and she would have to come back before us to do that but who knows what is going to happen in the future. To make a stipulation on it now is a Planning Board decision and not part of what we're here for tonight he said.

Mr. Aylard said they are here tonight to make sure it meets and stays with the spirit of the neighborhood and the ordinance and asked how that is not part of this.

Mr. Fisher said they are here tonight to vote on a variance and not put restrictions on that variance.

Mr. Scruton said they are approving the variance as requested.

Mr. Aylard said to fit this, the spirit of the ordinance being residential rental that is part of this because it makes an impact if something... This could all be good but the garage can be ugly and make this not fit this he said.

Mr. Pitre asked if she decided that we granted the variance as residential could she use the garage for storing items as a commercial business.

Mr. Scruton said yes but then asked without going for a site review.

Mr. Fisher said she would have to go for a site review to start a new business in there as a storage unit.

Mr. Pitre said she is already in the business.

Mr. Fisher said storing your own stuff is not a business storing somebody else's and charging them rental space is a business. He said if she was to open up a storage business when before it was approved for contractors to use for their purposes are 2 different types of businesses and

would have to come before site review.

Mr. Scruton said he thought if she was renting it to an electrical contractor who kept his stuff there it wouldn't need site review. He asked the board to return to the motion and that the motion is to approve the variance as requested.

Mr. Pitre said there was another motion made afterwards on restrictions.

The Recording secretary noted that Mr. Aylard said he would like to make a motion but didn't actually do so.

Mr. Fisher said they could have 2 motions one to grant or not grant the variance and a second motion for any stipulations to be added to the granting of the variance.

Mr. Scruton said if they do the first one then they are done with it. He said she asked to convert the 2 offices to 2 one bedroom apartments and keep the garage as commercial and this allows her to do it. We're approving the variance as requested he said.

Mr. Fisher said the public hearing is only for the 2 rental units even though in her statement in her application she requested to use the garage as a business. He said as advertised and what was put out to the public is we are here to discuss the residential units only nothing about what's in there for business. He said if that's the case they need a new public hearing and they need to continue this to add businesses to it or they just stick with the residential as it is in the public hearing. What the Town put out and what is lawful is this public hearing is on residential units and not on commercial uses he said.

Chairman Scruton called for the vote on the motion to approve the variance as requested.

Vote: the motion passed 5-0.

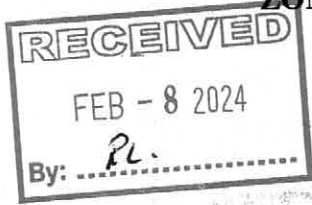
6). Any Other Business before the Board: None

7). Adjournment:

Motion: (Pitre, second Morgan) to adjourn the meeting passed 5-0 at 7:51 p.m.

Kathleen Magoon
Recording Secretary

John Scruton, Chairman



ZONING BOARD OF ADJUSTMENT, TOWN OF FARMINGTON

356 Main Street
Farmington, New Hampshire 03835

APPLICATION INSTRUCTIONS

Please read carefully prior to filling out your application. If you need assistance, please contact the Planning Department at 603-755-2774.

All information requested on the application must be filled in completely and legibly and submitted to the Planning Department with any additional documentation and all fees required. All documents in package must be collated by the applicant prior to submission. Incomplete application packages will not be scheduled until all requirements are met.

1. Three sets of mailing labels for each abutter on the certified abutter list including an extra set for each owner/applicant/professional
2. One certified Abutters List
3. Original and six complete copies of Application with supporting documentation
4. One signed copy of the Fee Schedule
5. All fees

All checks or money orders must be made payable to the Town of Farmington and must be paid in full at the time your application is submitted.

ABUTTERS' NAMES AND ADDRESSES MUST BE VERIFIED BY THE APPLICANT OR AGENT AGAINST THE RECORDS OF THE TOWN OF FARMINGTON NOT MORE THAN FIVE (5) DAYS PRIOR TO SUBMISSION OF THE APPLICATION.

When your application submission is determined to be complete, a hearing will be scheduled in accordance with the Zoning Board of Adjustment's published Hearing Schedule. Public Notice of the hearing will be published in Foster's Daily Democrat at least five (5) days prior to the scheduled hearing.

During the public hearing, the Zoning Board of Adjustment will reach a decision to grant, conditionally grant, deny, or continue the public hearing if deemed necessary by the Board. At the conclusion of the hearing or continued hearing, the Board will vote on your application and you will be sent a Notice of Decision.

**TOWN OF FARMINGTON
ZONING BOARD OF ADJUSTMENT**
356 Main Street
Farmington, NH 03835
603-755-2774

(For Office Use Only)

Date Rec'd: _____ By: _____ Tax Map/Lot _____
FEES:
Application: \$ _____ Public Notice: Actual cost of legal listing
Abutters: _____ x Actual cost of postage = \$ _____
Total Received: \$ _____ Cash _____ Check # _____

**APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL
REQUIREMENTS**

Tax Map: 12 Lot: 13 Zoning: Urban Residential

Name of Applicant: Donald Howard Phone: 603-973-2959

Address: 28 mt Vernon st Farmington NH 03835

Owner of Property Concerned: Same Janet Hackett
(if same as above, write "same")

Address: Same 14 Pearl Ln Farmington NH
(if same as above, write "same")

Location of Property: adjacent to my backyard

Description of Property: Frontage - 178' Sides - 257' rear - 300'
(list length of frontage, sides and rear)

Proposed use or existing use affected: There is wet lands and trees between
Her open yard and my yard, there should be no uses affected.

An Equitable Waiver of Dimensional Requirements is requested from article Table section 2.04b of the
Zoning Ordinance to permit minimum side setback of 5 feet

1. Does the request involve a dimensional requirement, not a use restriction? () Yes (x) No

2. Explain how the violation has existed for 10 years or more with no enforcement action, including
written notice, being commenced by the town: There has been a shed in
this corner of the property for well over 10 years without
issue.

3. Explain how the nonconformity was discovered after the structure was substantially completed or
after a vacant lot in violation had been transferred to a bona fide purchaser: The existing
shed had rotted to the point where it was no longer safe
to stand in so I built a replacement shed and put it in the same
area. my neighbor submitted a complaint a few months later

NOTE: All plats and/or plans to be recorded at the Registry of Deeds will require the applicant to pay \$29 per page plus the mandatory LCHIP charge of \$25.00. The Town of Farmington will file all plats/plans at the Registry on behalf of the applicant.

Additionally, all other fees for third party review or legal review by the Town Attorney must be paid by the applicant prior to filing of the decision for the application.

In the event that a Compliance Hearing is deemed necessary by the Planning Board, any and all fees resulting from said compliance hearing will be born by the APPLICANT/DEVELOPER, including any third-party review and all legal fees.

Additional Requirements:

- 2 sets of Mailing Labels for Abutter Notices on all public hearings, complete and supplied by applicant
- 1 certified Abutters List
- 16 complete copies of Application with supporting documentation plus original
- 16 copies of 11" x 17" Plan Sets
- 5 complete full-size Plan Sets
- 1 colorized full-size Plan Set
- 1 signed copy of this Fee Schedule

ZONING BOARD OF ADJUSTMENT

Application Fees:

Variance Request	\$150.00
Special Exception	\$150.00
Appeal from an Administrative Decision	\$150.00
Legal notice advertising	\$75.00
Legal notice advertising	Actual cost of listing
Abutter Fees	Actual cost of current postage rates per abutter plus applicant and professionals

Additional Requirements:

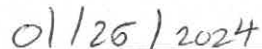
- 3 sets of Mailing Labels for Abutter Notices for all public hearings
- 1 certified Abutters List
- 6 complete copies of Application with supporting documentation plus original
- 1 signed copy of this Fee Schedule

NOTE: All additional copies of plans and application materials currently before the Planning Board or ZBA requested by Town staff and Boards shall be provided at the applicant's expense.

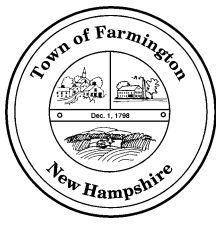
All additional copies of plans or file materials requested by the public shall cost \$1.00 per page. Plan sets that cannot be copied at the Municipal Offices will cost \$5.00 per sheet.



Applicant's Signature



Date



A Bicentennial Community
1798 - 1998

Town of Farmington
356 Main Street
Farmington, NH 03835
Phone: (603) 755-2208 • Fax: (603) 755-9934

February 20, 2024

Dear Abutter:

Notice is hereby given that the Farmington Zoning Board of Adjustment will meet on Thursday, March 7, 2024, at 7:00PM in the Municipal Offices Building, 356 Main Street to hold a:

Public Hearing for an Equitable Waiver of Dimensional Requirements by Donald Howard, Tax Map U12, Lot 13. A request has been made for an Equitable Waiver of Dimensional Requirements under Table 2.04 (B) Space and Bulk Standards to allow a replacement shed within the 15ft minimum side setback. The property is in the Urban Residential District.

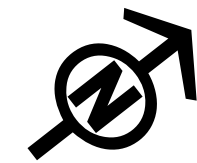
To make a request for more information on this proposal, please visit or reach out to the Planning and Community Development Department at the Municipal Offices Building at 356 Main Street.

Sincerely:

John Scruton, Chairman
Farmington Zoning Board of Adjustment

Map U12

TAX PARCELS MAP FARMINGTON NEW HAMPSHIRE



Legend

- Parcels
- Adjacent Map Sheets
- Cemetery
- Rivers and Streams
- Lakes and Ponds
- Wetlands
- Easements, Right-of-Way
- Roads

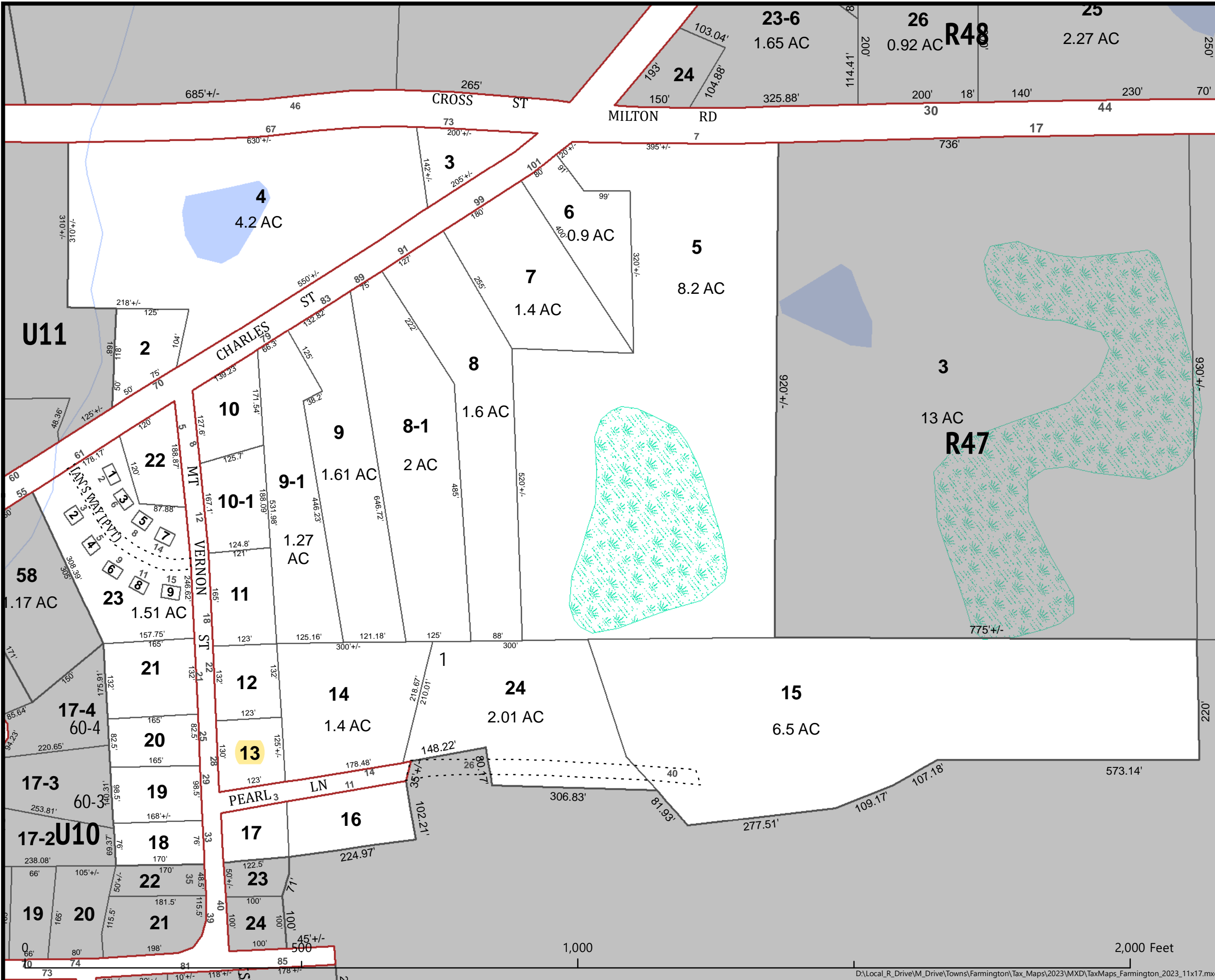
Prepared by the
Strafford Regional Planning Commission
150 Wakefield St. Suite 12 Rochester, NH 03867
Phone: (603) 994-3500
Email: srpc@strafford.org
Date: 9/7/2023
Author: Jackson Rand, SRPC

THIS MAP IS FOR ASSESSMENT PURPOSES ONLY. IT IS NOT INTENDED FOR LEGAL DESCRIPTION OR CONVEYANCE.

Base data layers from ESRI, NH GRANIT, and the Town of Farmington. These agencies and organizations have derived this data using a variety of cited source materials, at different time frames, through different methodologies, with varying levels of accuracy. As such, errors are often inherent in GIS data and should be used for planning purposes only. Please visit the original location of the data, contact the original host source, or contact SRPC for information on the full data set.



2023



RESERVED REGISTRY OF DEEDS

NOTES:

1. THE PURPOSE OF THIS PLAN IS TO DEPICT THE PROPERTY LINES OF TAX MAP U12, LOT 14.
2. TOTAL PARCEL AREA: MAP U12, LOT 14 1.30 ACRES
3. PARCEL IS ZONED UR - URBAN RESIDENTIAL
4. THE SURVEYED PARCELS ARE SERVICED BY THE MUNICIPAL WATER AND SEWER SYSTEM.
5. THE SURVEYED PARCEL IS NOT LOCATED WITHIN THE 100 YEAR FLOOD ZONE AS SHOWN ON THE FLOOD INSURANCE RATE MAP DATED MAY 17, 2008 COMMUNITY PANEL 3301702118D.
6. HORIZONTAL DATUM: ASSUMED, VERTICAL DATUM: ASSUMED
7. ABUTTING PROPERTY INFORMATION WAS TAKEN FROM FARMINGTON TAX RECORDS. ABUTTING PROPERTY LINES WERE TAKEN FROM FARMINGTON TAX MAPS AND ARE FOR INFORMATIONAL PURPOSES ONLY.
8. PEARL LANE IS A VARIABLE WIDTH CLASS V ROAD, PER NH DOT. SEE PLAN REFERENCE 1. EASEMENT TO TOWN BY PRESCRIPTION.

REFERENCE PLANS:

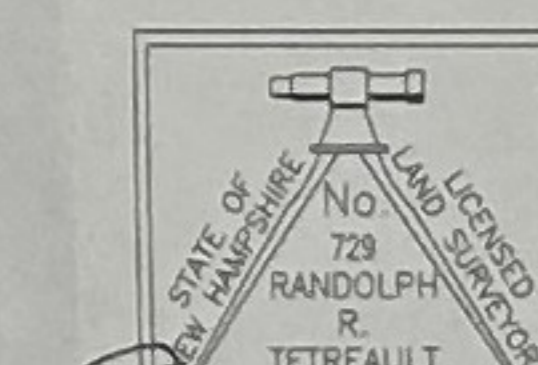
1. "SUBDIVISION PLAT - FARMINGTON, STRAFFORD COUNTY - NEW HAMPSHIRE - PREPARED FOR GEORGE C. TIBBETTS"
DATED: OCTOBER 18, 1993 BY GEOMETRES BLUE HILLS
RECORDED: SCRD PLAN 43-25
2. "BOUNDARY PLAT, IN FARMINGTON, NEW HAMPSHIRE PREPARED FOR JOHN C. & ELEANOR M. FITCH"
DATED: AUGUST 18, 1989 BY DURGIN/SCHOFIELD ASSOCIATES
RECORDED: SCRD PLAN 37-115
3. "LOT LINE REVISION - FARMINGTON, N.H. FOR WILLIAM & KATHY ANN TSIROS"
DATED: NOVEMBER 13, 1985 BY JOHN W. DURGIN ASSOCIATES
RECORDED: SCRD PLAN 33-26
4. "LAND OF BETHANY MARIE & JUAN AVINA - 3 MOUNT VERNON STREET - FARMINGTON, N.H."
DATED: NOVEMBER 15, 1996 BY BERRY SURVEYING & ENGINEERING
RECORDED: SCRD PLAN 49-69
5. "CORRECTIVE CONDOMINIUM SITE PLAN - IAN'S WAY AT FARMINGTON CONDOMINIUMS - CHARLES STREET/ROUTE 153 & MT. VERNON STREET - TAX MAP U12, LOT 23 - FARMINGTON, NH FOR RSA
DATED: JULY 2007 BY NORWAY PLAINS ASSOCIATES, INC.
RECORDED: SCRD PLAN 91-41

OTHER REFERENCES:

PETITION OF SAMUEL SEAVY AND OTHERS TO THE SELECTMAN FOR A NEW HIGHWAY (LAYOUT OF MOUNT VERNON STREET)
VOLUME 5, PAGE 275 OF THE TOWN OF FARMINGTON RECORDS.

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

I FURTHER CERTIFY THAT I HAVE FILED A COPY OF THIS PLAN WITH THE PLANNING BOARD OF THE TOWN OF FARMINGTON, NH IN ACCORDANCE WITH RSA 676:18.

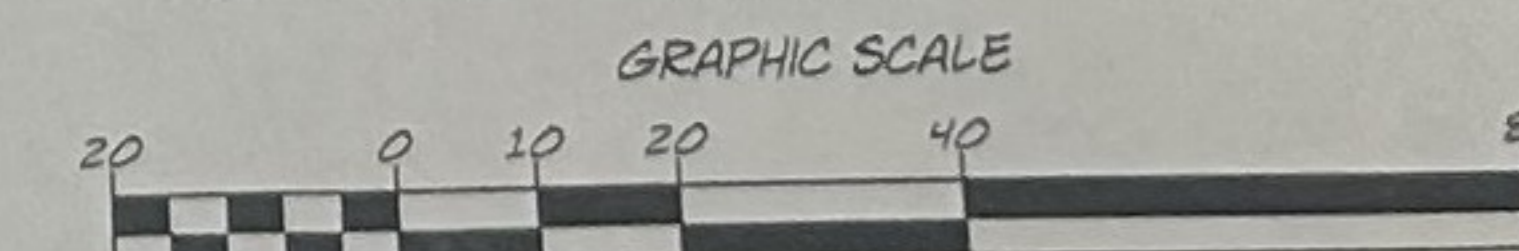


Randolph R. Tetreault, LUS #729
RANDOLPH R. TETREAULT, LUS #729
DATE: Jan 24th 2024

TAX MAP U12, LOT 14
OWNER OF RECORD:
JANET V. HACKETT
14 PEARL LANE
FARMINGTON, N.H.
BOOK 2180, PG 337

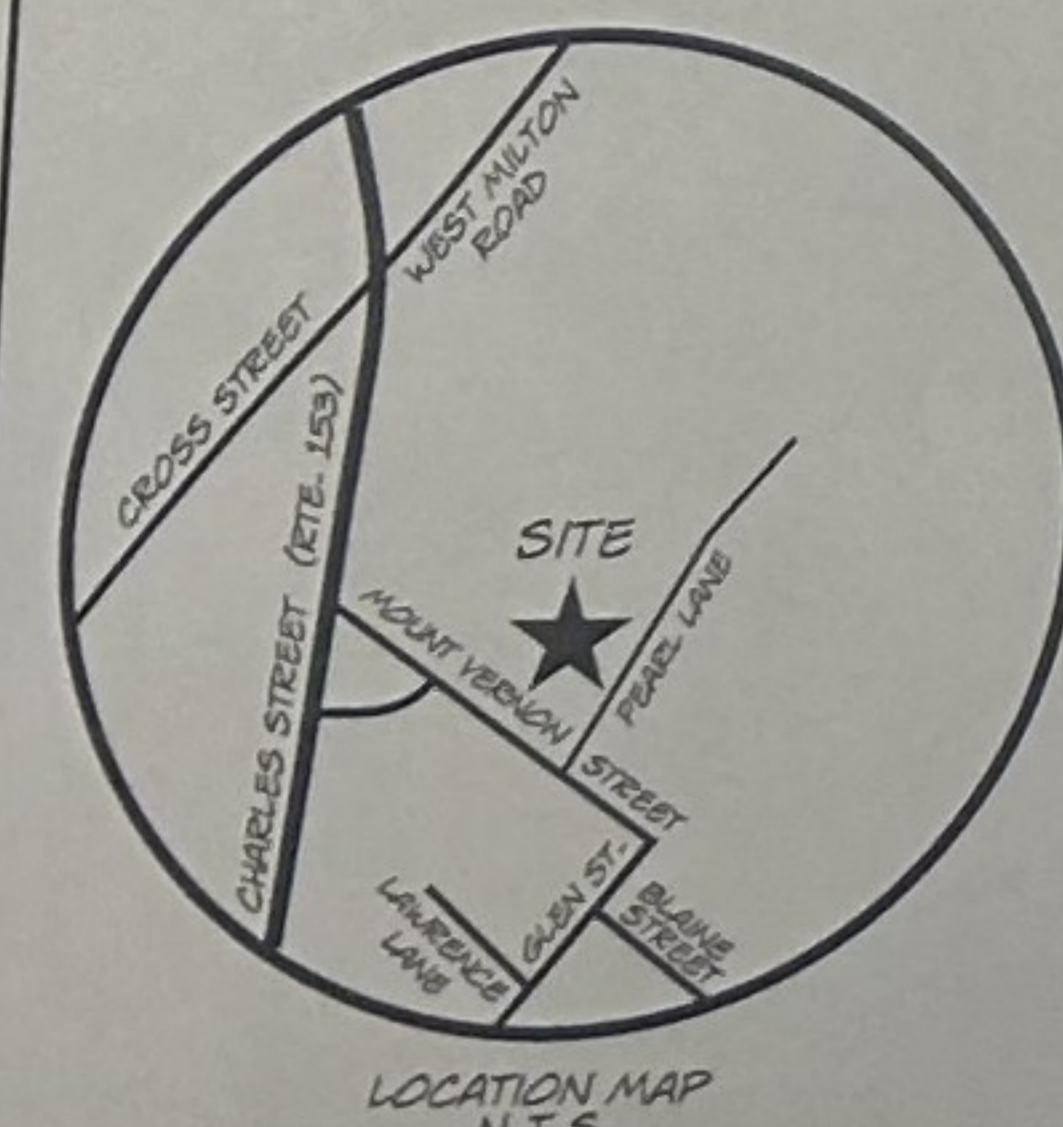
BOUNDARY SURVEY
14 PEARL LANE
FARMINGTON
STRAFFORD COUNTY
NEW HAMPSHIRE
FOR:
JANET V. HACKETT

1" = 20' DECEMBER 2023



REVISIONS:

FILE NO. 168
PLAN NO. C-3493
DWG. NO. 23339 B-1
DRAWN BY: AFR



NPA
MAGNETIC - OBSERVED DECEMBER, 2023

TAX MAP U12, LOT 11
N/F RAYMOND E. & MAUREEN COUCH
18 MOUNT VERNON STREET
FARMINGTON, NH 03835
S.C.R.D. BOOK 1333, PAGE 406

TAX MAP U12, LOT 9-1
N/F DAVID B. & PATRICIA A. SPRAGUE
79 CHARLES STREET
FARMINGTON, NH 03835
S.C.R.D. BOOK 1259, PAGE 415

TAX MAP U12, LOT 9
N/F RAINONE PROPERTIES LLC
14 GARY ROAD
MIDDLETON, NH 03887
S.C.R.D. BOOK 4707, PAGE 514

TAX MAP U12, LOT 8-1
N/F THE FRANK K. LORD & PAMELA B. LORD IRREVOCABLE TRUST
89 CHARLES STREET
FARMINGTON, NH 03835
S.C.R.D. BOOK 3769, PAGE 514

TAX MAP U12, LOT 12
N/F DONALD E. HOWARD SR & TRUST
25 MOUNT VERNON STREET
FARMINGTON, NH 03835
S.C.R.D. BOOK 3860, PAGE 777

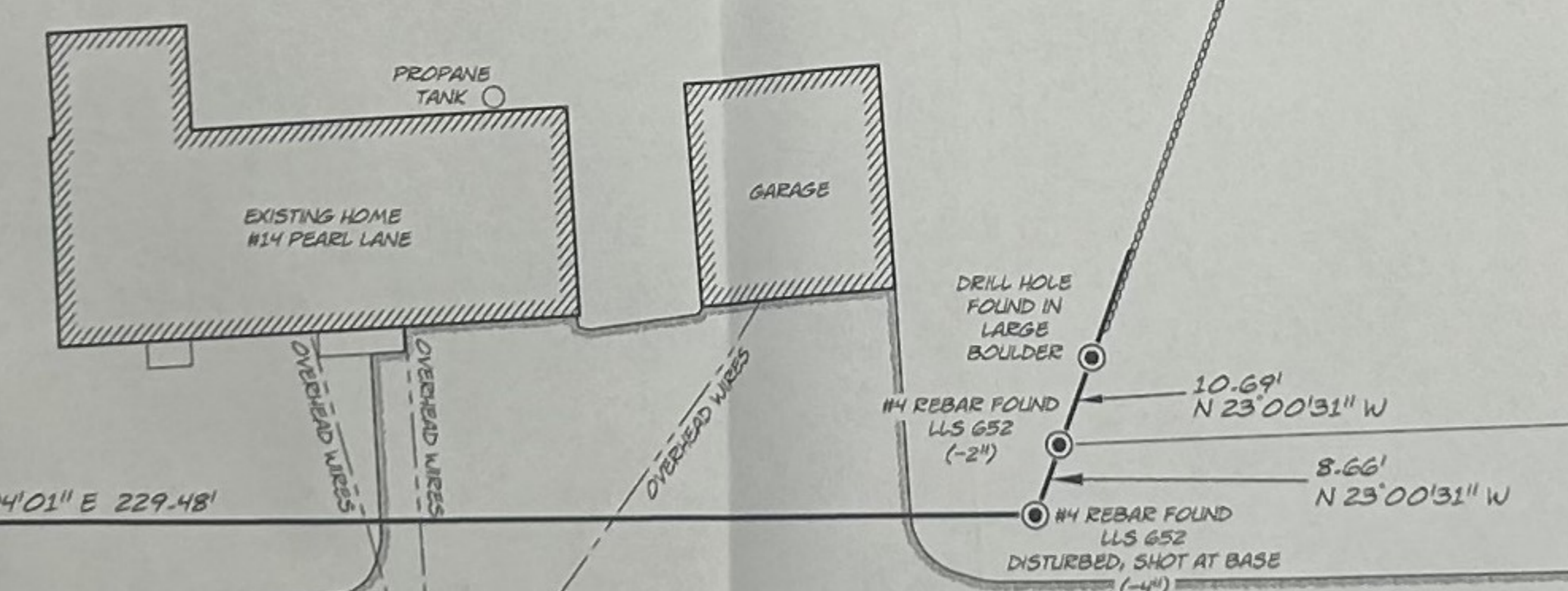
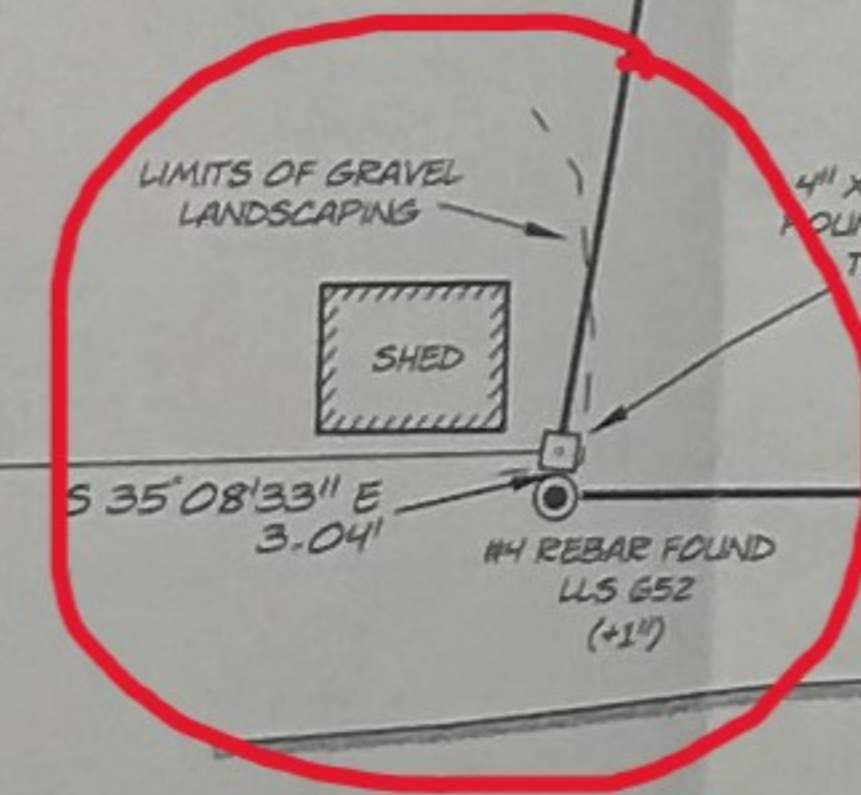
TAX MAP U12, LOT 13
N/F DONALD HOWARD III
28 MOUNT VERNON STREET
FARMINGTON, NH 03835
S.C.R.D. BOOK 5126, PAGE 784

SEE SOURCE DEED DATED 12-1-1910
FROM ANNE B. PEARL TO JAMES A. FLETCHER
S.C.R.D. BOOK 359, PAGE 528

TAX MAP U12, LOT 17
N/F PAUL BOSTEN
3 PEARL LANE
FARMINGTON, NH 03835
S.C.R.D. BOOK 4947, PAGE 472

TAX MAP U12, LOT 14
56,695± SF - 1.30± ACRES

TAX MAP U12, LOT 24
N/F GORDON G. TIBBETTS
PO BOX 95
FARMINGTON, NH 03835
S.C.R.D. BOOK 2116, PAGE 312



PEARL LANE

TAX MAP U12, LOT 16
N/F G9 DAWSON LLC
750 LAFAYETTE ROAD
PORTSMOUTH, NH 03801
S.C.R.D. BOOK 5103, PAGE 453



W12-011-000

W12-021-000

W12-012-000

W12-020-000

W12-013-000

W12-014-000

W12-013-000

W12-013-000

W12-017-000

W12-016-000

W10-020-000

W10-024-000

W10-017-000

W10-017-000

W12-025-000



DU PONT

Tyvek
HomeWrap

THE HOME
DEPOT

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yvek
meWrap

DU PONT

Tyvek
HomeWrap



DUPONT

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