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

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**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 – May 2, 2024  
Meeting Time: 7:00PM

1. Pledge of Allegiance
2. Election of Officers and Membership Term Renewals
3. Approval of the Prior Minutes
  - March 7, 2024 Meeting Minutes
4. Old Business
5. New Business
  - A. Public Hearing for a Variance by Linda M. Currier Trustee, Charles F. Currier Jr., and Linda M. Currier Revocable Trust, Tax Map R61, Lot 20. A request has been made for a Variance under Table 2.03 (B) Space and Bulk Standards. The applicant is requesting relief to allow the issuance of a building permit on a pre-existing, non-conforming lot that does not meet the 150-foot street frontage requirement. The property is in the Rural Residential District.
6. Any Other Business Before the Board
7. 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:** 4/29/2024  
**Re:** May Zoning Board Meeting

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Good evening,

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

1. Pledge of Allegiance
2. Election of Officers and Membership Term Renewals

According to the Bylaws for the Farmington Zoning Board of Adjustment (adopted 11/3/2022), the following Officers shall be elected by a majority vote of the Board at the first regularly scheduled meeting of the Board following Town elections in March:

- **Chairperson:** He/she shall preside over meetings and hearings, appoint such committees as directed by the Board, and shall affix his/her signature in the name of the Board.
- **Vice Chairperson:** He/she shall preside in the absence of the Chairperson and shall have full powers of the Chairperson on matters that come before the Board during the absence of the Chairperson.
- **Clerk/Secretary:** He/she shall maintain a record of all meetings, transactions, and findings of the Board. Duties of the Clerk may be performed by staff pursuant to RSA 673:16, I. In cases where staff assistance is unavailable, the elected members shall fill this role.

All officers shall serve for one year and shall be eligible for re-election.

Two existing members, John Scruton and John Aylard, have both requested that their membership be renewed for another three (3) year term. The BOS voted to re-appoint both members at their meeting on March 18, 2024

3. Review and Approval of March 7, 2024 Minutes
4. Old Business
5. New Business
  - A. Public Hearing for a Variance by Linda M. Currier Trustee, Charles F. Currier Jr., and Linda M. Currier Revocable Trust, Tax Map R61, Lot 20

A request has been made for a Variance under Table 2.03 (B) Space and Bulk Standards. The applicant is requesting relief to allow the issuance of a building permit on a pre-existing, non-conforming lot that does not meet the 150-foot street frontage requirement. The property is in the Rural Residential District.

This application was originally scheduled for the April meeting but was cancelled due to inclement weather.

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. Variance Description

A variance is legal permission to violate a specific restriction in the Zoning Ordinance. It is designed to be the exception, not the rule, and the Zoning Board of Adjustment may only approve a variance if an applicant meets the 5-part test in State law. An applicant for a variance must answer all questions on the application plus any extra considerations required by the section of the Zoning Ordinance that is the object of the variance request.

The applicant must convince the ZBA that the application satisfies all five criteria, or the ZBA is not legally allowed to grant the variance.

If needed, see attached guidance from the Town's legal counsel.

c. Planning Department Comments

Included in the applicant's application is the approved subdivision from 1976 that shows the lot in question (R61, Lot 20). Given that this property is for sale, the Planning and Community Development Department, in conjunction with the Town's legal counsel, has advised the seller and/or any potential buyers to seek and obtain a variance from the frontage requirement prior to any offer being accepted. To be clear, this is not a variance for the use, as it is a pre-existing non-conforming lot in a residential area where the proposed use of a single-family dwelling is allowed by right. The applicant is only seeking relief from the frontage requirement and to ensure that Section 3.02 Access to Lots to Streets, which states that no building shall be erected on a Lot unless the Lot has Street Frontage as defined by Section 1.14, is met.

6. Any Other Business Before the Board

7. 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](mailto:kpimental@strafford.org).

Respectfully,

-Kyle Pimental, Director of Planning and Community Development

Town of Farmington  
Zoning Board of Adjustment Meeting Minutes  
Thursday, March 7, 2024  
Selectmen's Chambers  
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:**

Donald Howard, applicant  
Janet Hackett, abutter

**1). Call to Order:**

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

**2). Pledge of Allegiance:**

All present stood for the Pledge of Allegiance.

**3). Review of Minutes:**

**November 2, 2023-Public Meeting Minutes-** No errors or omissions

**Motion:** (Pitre, second Aylard) to approve the minutes as written passed 5-0.

**4). Old Business:**

Mr. Scruton said Mr. Fisher has given his resignation and he wanted to publicly commend him for all the work he has done over the years on this board, the Planning Board and other places throughout the town. He said he really appreciated that and the town appreciates it. He said he is also encouraging the public to volunteer and there are openings throughout the town on many of the boards and we need to have people volunteer to serve that is certainly an important function.

Mr. Fisher thanked Mr. Scruton and said the EDC is also very under staffed.

**5). New Business:**

**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 15 ft. minimum side setback. The property is in the Urban Residential District.

Mr. Scruton read the above notice of the public hearing aloud and then said for those who don't know what an Equitable Waiver is it deals with just an error related to the dimension of where the item is compared to the lot line. He said Planning Director Kyle Pimental has a memo in their packets that all of the public notices under RSA 676:7 have been met and then read the following: "When a lot or division of land or structure there upon 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 you meet the following 4 findings: 1). The violation was not noticed or discovered by any owner, former owner, owner's agent, 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; 2). 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; 3). 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 4). 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."

Mr. Scruton said they have a request for that equitable waiver which has been submitted and he would like to clarify that there is an error on the application that needs to be corrected. He asked Donald Howard to come forward and showed him on the application where he checked No on question #1 (does the request involve a dimensional requirement, not a use restriction) and he believed that he meant to check Yes.

Mr. Howard read the question and said he meant to check Yes.

Mr. Scruton asked him to correct it and then initial it and he did so. He declared the public hearing open at 7:07 p.m. and then asked Mr. Howard to come forward and make his presentation. He said Mr. Howard had the first opportunity to address those 4 points and asked him to tell them what happened and what the situation is.

Mr. Howard said when he bought the house there was a shed in the back right corner of the property and the floor had rotted out so he and his father built a new shed and put it in the same spot just a usable shed a little taller for him. He said he wasn't aware of the zoning rules and the shed had been there for 15+ years so he assumed it was okay to put a shed back there.

Mr. Scruton asked if it was the same foot print as the prior one.

Mr. Howard said yes, it's the same size in the same corner but it's taller because it has a loft in it and he's 6'6". He said he wasn't trying to be malicious or hurt anybody. He said the property behind the shed had roughly 25-30 ft. of wetlands and woods that separate his yard and Mrs. Hackett's yard so he didn't see how that would impact her property at all. He said Pearl Lane is a quiet private road and he didn't feel he was implying on the street at all.

Mr. Pitre asked how far the shed is from Pearl Lane.

Mr. Howard said it's probably about 10 or 15 ft. from the road edge. He said Mrs. Hackett recently had it surveyed so there is now a post out there that shows his shed from the boundary line of Pearl Lane is probably 4 or 5 ft.

Mr. Scruton asked him if he knew if that is just an easement right-of-way or if there is a deeded strip that is part of the road.

Mr. Howard said that he is not sure of.

Mr. Scruton said in this picture it looks like it sits on cement blocks and asked if that was correct.

Mr. Howard said it sits on cement blocks because he didn't want it to rot out like the last 1 did.

He noted that he stopped construction once he got the notice and he hasn't sided it yet.

Mr. Fisher said looking at these 2 pictures he sees power lines running in front of the shed and asked how close to the shed those power lines are.

Mr. Howard said those are his cable and internet lines and they are probably 4 to 5 ft. in front of the shed. They come through the trees next to the shed and then cross my yard 4 to 5 ft. in front of the shed and I put the metal roof on without hitting the wires he said.

Mr. Fisher asked how hard it would be to, if they were to go that way and he wasn't saying that they are, to get a shed moving company to come in and pick that up and move it.

Mr. Howard asked if he meant moving it to the left.

Mr. Fisher said behind it he's well within...

Mr. Scruton said the problem is the back side of the shed.

Mr. Howard said the trees behind it are Mrs. Hackett's property.

Mr. Fisher said he thought the 5 feet was between the building and asked if this was Pearl Lane on the map.

Mr. Scruton said that's correct but it's not a Pearl Lane issue it's Mrs. Hackett's issue behind it.

Mr. Fisher asked how close he is to Mrs. Hackett's property.

Mr. Howard said her property is the tree line behind the shed and it's probably 5 or 6 ft. away. He said the actual movement of the shed wouldn't be all that difficult it's the placement of the shed afterwards that's going to be practically in the middle of his yard where his children play and the 15 x 15 ft. is almost right under the cable lines as well.

Mr. Howard said there was nothing else he wanted to add so Mr. Scruton asked Mrs. Hackett to come forward and present her survey.

Mr. Pitre asked if one of the pictures provided is what she has.

Mrs. Hackett said this survey was when the original marker was put in by Gordon Tibbits back in 1993 and it shows her property line.

Mr. Scruton pointed to survey and asked if this corner is where the issue is.

Mrs. Hackett pointed out where the 4' x 4' granite marker was and said it got broken off when she was on vacation.

Mr. Scruton asked if there is a stone wall there.

Mrs. Hackett said there was a stone wall but this property has been pushed back, disturbed and whatever so it has been pretty well filled in. She said he has another shed that is up here further

that is actually over her property line.

Mr. Scruton said she could put in a complaint to the Code Enforcement Officer for that and that would start his process. Today we're dealing with the shed in the corner he said.

Mrs. Hackett showed the board several pictures of the shed and the markers on her phone.

Members discussed the scale used for measurement on the survey and Mr. Scruton said it's probably 5 ft.

Mrs. Hackett said she measured it with a tape and it's 50 inches.

Mr. Scruton said that's a little over 4 ft. He asked if Mr. Howard knew how long his side boundary is on Pearl Lane.

Mr. Howard said he thinks it is 125 ft.

Mrs. Hackett said it's on the survey.

Mr. Scruton said on the survey it looks to be 229 ft. and asked him if that sounded about right.

Mr. Howard said it might be.

Mrs. Hackett said the town did accept Pearl Lane just up above her house as a road and she has a paper in her safe that says it is a Town road. She said the further part belongs to Tibbets but there was 32 ft. r-o-w for Pearl Lane originally and then through the years the Town started maintaining it and the Town accepted part of it and she has a paper in her safe that says that.

Mr. Scruton said he wished she brought the paper with her as he would like to have seen it.

Mrs. Hackett said it shows on this one there was a marker out closer to Mount Vernon St. that showed the actual width of Pearl Lane on that end too.

Mr. Scruton asked if Mr. Tibbetts owns Pearl Lane.

Mrs. Hackett said technically not he owns further up. She said years ago the Town accepted it as a Town road from just above her property down.

Mr. Scruton said unless a deed was given, he could well own the under lying land rights but the Town burdens it with an easement which is the Town road. He asked if it was a fee title easement but that was only 1 of the dimensions they were dealing with.

He said the dimension they were dealing with today-she says 50 inches and it looks like 4 ft. He asked if anyone had any questions as to what the situation is. He then asked if the 2 of them have tried to resolve some issue.

Mrs. Hackett said no but she would be willing to allow him to have that shed within 10 ft. of her boundary line if he will move that other shed back 10 ft. also.

Mr. Howard said he had no problem with that and he had no idea.

Mrs. Hackett said she told him when he put the shed back there it was over her boundary line.

Mr. Scruton asked Mr. Howard if that was something he would agree to-10 ft. for both of them.

Mr. Howard said that seems reasonable to him and he is halfway there now and that doesn't really impede on his yard and if Janet is happy with that, he is okay with it.

Mr. Pitre asked Mrs. Hackett if she was happy with 10 ft.

Mrs. Hackett said yes if that's agreed to and enforced she would be happy with that and she wants to be fair too.

Mr. Howard asked if that was 10' to the left from Pearl Lane and the other one was 10' forward.

Mr. Pitre said yes.

Mr. Aylard asked who is going to verify that.

Mr. Scruton said the Code Enforcement Officer would do that especially if the granite pin was there that helps.

Mrs. Hackett said they were putting some type of stone dust around the back of the shed is when the post got broken.

Mr. Scruton said granite posts are not very strong and they do not last.

Mrs. Hackett said there is a pin there also, they found it and set it right on here.

Mr. Scruton said they need to answer 4 questions and he thought they had a solution here but they need to go through the process.

Mrs. Hackett asked if they would like her to bring that letter in that says Pearl Lane is (a Town road).

Mr. Scruton said he didn't think they needed it today. He turned to the Equitable Waiver of Dimensional Requirements and asked the following:

1). Is there agreement that the violation was not noticed or discovered by the owner or somebody in the past and that it was ignorance of the location of the line that led to the location of the new shed.

Consensus of the board was yes.

Mrs. Hackett said neither one of them realized there was a distance of the 15 ft.

2). Mr. Scruton said that answered this question too that the violation was not an outcome of ignorance of the law it was the location.

3). The physical dimension does not constitute a public or private nuisance or diminish the value of the property.

4). Due to the degree of past construction or investment made in ignorance of the facts the cost of correction outweighs any public benefit to be gained and would be inequitable to require correction.

Mr. Scruton said he thought #3 and #4 depend upon moving it 10 ft. away but if they move it 10 ft., they can grant an Equitable Waiver for the remaining 5 ft. He asked if that was the consensus of the board.

Consensus of the board was yes, they agreed with Mr. Scruton.

**Motion:** (Pitre, second Aylard) to grant the waiver as presented with the 10 foot adjustment on both sheds as agreed to by both Donald Howard and Janet Hackett;

**Discussion:** Mr. Aylard asked if he was going to put any time limit on it.

Mr. Pitre said no and that he has to do it.

**Vote:** the motion passed 5-0.

Mr. Scruton thanked Mrs. Hackett for being agreeable to come to an equitable solution for the equitable waiver.

**6). Any Other Business before the Board:** None



**7). Adjournment:**

**Motion:** (Pitre, second Aylard) to adjourn the meeting passed 5-0 at 7:25 p.m.

Kathleen Magoon, Recording Secretary

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John Scruton, Chairman

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

(For Office Use Only)  
Date Rec'd: 3-8-24 By: [Signature] Tax Map/Lot: R61 20  
FEES:  
Application: \$ 100.00 Public Notice: Actual cost of listing  
Abutters: actual cost of postage per letter = \$ \_\_\_\_\_  
Total Received: \$ 100.00 Cash  Check # 3976

VARIANCE

Tax Map: R61 Lot: 20 Zoning: RURAL RESIDENTIAL

Name of Applicant: LINDA M. CURRIER TRUSTEE, CHARLES F CURRIER JR.  
AND LINDA M CURRIER REVOCABLE TRUST Phone: 603-755-2375

Address: 210 CHARLES ST. FARMINGTON NH 03835

Owner of Property Concerned: SAME  
(If same as above, write "same")

Address: SAME  
(if same as above, write "same")

Location of Property: LOT 20, FOXTROT DR. FARMINGTON NH

Description of Property: 791.6' x 540' x 746' x 800'  
(list length of frontage, sides and rear)

Proposed use or existing use affected: see attached letter

A variance is requested from article \_\_\_\_\_ section 2.03(B) of the Zoning Ordinance to permit  
see attached letter

Facts supporting this request:

1. The Variance will not be contrary to the public interest: see attached letter

2. The spirit of the ordinance is observed: see attached letter

3. Substantial justice is done: see attached letter

4. The value of surrounding properties are not diminished: see attached letter

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:  
see attached letter

**NOTE:**

(A) For purposes of the Variance application, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) 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
- (ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Applicant *Rinda M. Jensen* Date 2/28/24  
(Signature)

Property Owner *Rinda M. Jensen* Date 2/28/24  
(Signature)

RSA 674:33

**NOTE: This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if the space provided is inadequate.**



# TOWN OF FARMINGTON - VALUATION AND FEE SCHEDULE

## BUILDING DEPARTMENT

### Calculation of Value:

Residential Building Permit	\$70 per square foot
Non-livable structures	\$35 per square foot
Porches & Decks & Sheds	\$20 per square foot
Manufactured Housing/Mobile Homes	Bill of Sale Required
Commercial Structures /Buildings	Based on construction contract (copy required)
In Ground Pool	Based on construction cost

**Example: 1200 square feet x \$70 = \$84,000 divided by 1000 = 84 times \$7.50 = \$630**

**\*\* Does not include inspections or technician permit fees**

### Fees:

Building Permit	\$25 flat fee plus \$8.00 per \$1000 value
Electrical, Plumbing, Gas/Mechanical Permit	\$50 + Inspections @ \$30 each
Tank Set	\$50 + Inspections @ \$30 each
Inspections / Re-inspections	\$30 each occurrence
Above Ground Pool or Hot Tub Permit	\$25 + Inspections @ \$30 each & Electrical Permit Fee
Demolition/Wrecking Permit	\$75
Oil Burning Permit	\$50

**All fees must be paid for when the permit is issued.**

## PLANNING BOARD

**Applications for Amendments to previously approved plans will be treated as a new application.**

### Application Fees:

Minor Site Review	\$100
Major Site Review	\$200 base fee, plus .10 per square foot
Minor Subdivision Review	\$175 base fee plus \$100 per newly created lot
Major Subdivision Review	\$225 base fee plus \$100 per newly created lot
Lot Line Revision	\$150 base fee
Special Use Permit	\$150 base fee
Voluntary Lot Merger	\$20 (Recording Fee)
Earth Removal Permit	\$150 base fee
Scenic Tree Cutting/Trimming	\$150 base fee
Legal Notice Advertising	Actual cost of listing
Abutter Fees	Actual cost of current postage rates per abutter (including applicant and professionals)

**Planner's Fee: A fee of \$85.00 per hour will be incurred by the applicant for any Planning Board application that requires more than a total of eight (8) hours to review and process.**

**OVER** 

**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 borne by the APPLICANT/DEVELOPER, including any third-party review and all legal fees.**

**Additional Requirements:**

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

**ZONING BOARD OF ADJUSTMENT**

**Application Fees:**

Variance Request	\$100
Special Exception	\$100
Appeal from an Administrative Decision	\$100
Legal notice advertising	Actual cost of listing
Abutter Fees	Actual cost of current postage rates per abutter (including applicant and professionals)

**Additional Requirements:**

- 3 sets of Mailing Labels for Abutter Notices for all public hearings
- 1 certified Abutters List
- 10 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.**

  
\_\_\_\_\_  
Applicant's Signature

2/28/24  
\_\_\_\_\_  
Date

Town of Farmington  
Zoning Board of Adjustment  
356 Main Street  
Farmington, NH 03835

February 28, 2024

RE: Variance Application for Property located on Foxtrot Drive  
Farmington Tax Map R61, Lot 20  
Zone: Rural Residential, Zoning Ordinance Section 2.03

Dear Board Members:

This letter supplements the Variance Application submitted by:

Linda M. Currier, Trustee; Charles F. Currier and Linda M. Currier Revocable Trust  
of 210 Charles St, Farmington NH 03835

I am the current land owner of the vacant lot located at the above referenced variance application site. I am seeking an approved variance for non conforming street frontage per the Zoning Ordinance Table 2.03(B) One Hundred Fifty (150) foot minimum street frontage, in order to be able to sell this parcel of land. Specifically, a variance is requested to allow the development of a driveway into the parcel and a single family home to be erected.

For the reasons set forth below, the Variance Application warrants the relief requested from the one hundred fifty (150) foot Street Frontage requirement.

### **Variance Criteria Addressed**

It is reasonable to grant the street frontage relief to authorize issuance of the building permit for the proposed driveway and single family home.

#### **1. Granting a variance is not contrary to the public interest.**

Under N.H. law, Applicants do not have an affirmative duty to show that granting the requested variance furthers the public interest. Rather, the burden is simply to show that granting it will not be contrary to the public interest. That this distinction suggests a relatively low standard was acknowledged by the N.H. Supreme Court's decision in Chester Rod and Gun Club, Inc. v Town of Chester, 152 N.H. 577 (2005). In considering this criteria, the Court recommends the ZBA consider whether the requested variance would "unduly and to a marked degree" conflict with the basic premises of the Zoning Ordinance, or alter the essential character of the locality, or threaten the public health, safety or welfare. *Id.* at 508.

The application will not alter the essential character of the locality. The modest development of the driveway and future home on the lot does not threaten the public's health, safety or welfare.

**2. The Spirit of the ordinance is observed by granting the requested street frontage variance.**

In considering this criteria, Courts have suggested it to be interdependent with and should be construed together with the “not contrary to the public interest” criteria. Chester Rod and Gun Club at 580. The points made above are equally relevant to this variance test.

The reasonableness of this request is underscored by the fact that I, nor the potential buyers of this property are not looking to create something that would be deemed to not fit with the keeping or general layout or look of the surrounding properties. The buyers are proposing a modest development of the lot with a single family house and driveway.

**3. Granting the requested street frontage variance would do substantial justice.**

This criteria requires consideration of all the facts relevant to the application, and a balancing of the public’s and the Applicant’s interests. One way to consider whether “substantial justice” would be done is to determine whether there is any gain to the public that is greater than the loss suffered by the applicant if the variance is not granted. See, Farrar v City of Keene, 258 N.H. 684, 692 (2009). To apply this legal standard, the ZBA should imagine a scale, and on it weigh the loss suffered to me as the land owner/applicant on one side, against (on the other side of the scale) the public benefit to be gained by strict adherence to the Zoning Ordinance’s dimensional requirements by denying the requested street frontage relief.

I will lose the opportunity to sell the parcel of land to the prospective buyers, or to further develop the land for personal use if I so choose in the future if the variance is denied. It is hard to articulate any gain to the public in denying the variance. The modest proposal is consistent with the development generally in the Foxtrot neighborhood.

The proposed development is reasonable. It’s in keeping with the neighborhood. As such, the scale tips in favor of granting a variance.

**4. Values of surrounding properties are not diminished by granting the requested street frontage relief.**

I have generally discussed the sale of the land with the closest abutters on Foxtrot Dr. Abutter letters have been sent out through my real estate agents to all the abutters and surrounding homeowners. I have not received any objections to the sale of the land, nor do I expect any objections to the requested variance from the abutters.



ZBA Board members are legally permitted to rely upon their general knowledge and awareness of our area's rapidly appreciating real estate values and the competitive real estate market. It is hard to imagine that this modest proposal will have an adverse effect on surrounding property values.

**5. Literal enforcement of the street frontage requirements from which the relief is requested would result in unnecessary hardship because special conditions of the property distinguish it from others in the area, and no fair and substantial relationship exists between the general public purposes of the express street frontage requirements and its specific application to this property.**

Special conditions of the property do distinguish it from others in the general neighborhood. The subject property is the largest and last lot on a deadend road, it is accessible only through a right of way, which was originally intended to be a town approved road that was accessible from both Foxtrot Dr. (Originally named "Woodland Drive) and Silver St. The subject property was originally meant to be subdivided into multiple lots with the other adjacent parcels of land that my late husband and I currently own. (See attached "Conceptual Subdivision Layout" prepared by Norway Plains Survey Associates, Inc. Dated Sept. 1988.

For reasons I cannot remember the subdivision never went forward. If the subject property's originally intended use was a single family lot and was not intended to be subdivided, it would have most certainly been designed with the minimum required street frontage per the Zoning Ordinance at that time.

No fair and substantial relationship exists between the purpose of the (RR)'s 150 foot street frontage and fully enforcing its compliance to this application. To do so effectively precludes the sale or the modest development proposed herein.

These facts show that I meet the unique statutory and NH Supreme Court Case Law defined hardship standard. Further, the proposed sale or modest development will not threaten the public health, safety and welfare which is the general purpose of the Zoning Ordinance.

The street frontage variance request is reasonable and should be granted.

Very warmly yours,



Linda M. Currier, Trustee

Charles F. Currier and Linda M. Currier Revocable Trust

Lee & Karen Warburton  
45 Foxtrot Dr.  
Farmington, NH 03835

March 4, 2024

Town of Farmington  
Zoning Board of Adjustment  
356 Main St.  
Farmington, NH 03835

RE: Abutter's Support Letter  
Lot 20 (R61-020) – Foxtrot Dr. – Linda Currier

Dear Members of the Zoning Board,

We are writing this letter as we own property on Foxtrot Dr. Our primary home is at 45 Foxtrot Dr. which is parcel ID R61-022. We own the 5-acre lot at Lot 16 which is parcel ID R61-021.

We purchased Lot 16 on 10/07/2022 from Mrs. Currier as we wanted to ensure no development would take place immediately behind and/or beside of our primary home.

We have spoken to Mrs. Currier and her Real Estate Agents. (Which we are aware that the selling agents are related to the seller). They have advised that they have a family interested in constructing a single-family home and using the land for their personal use.

As the buyer's intentions aligns with the existing character of our neighborhood, we are supportive of the development that we were advised would take place. We are appreciative to the Currier's for wanting to keep the land with individuals that will enjoy our quiet neighbor. And not to a developer looking to place numerous homes and increase the traffic on our dead-end road.

If you require any further information or would like to discuss this matter further, please feel free to reach out to either of us.

Thank you,



Lee Warburton  
603-817-1330

[Warby43@gmail.com](mailto:Warby43@gmail.com)



Karen Warburton  
603-755-1102

[karen.warburton@gmail.com](mailto:karen.warburton@gmail.com)

Ed Malachowski  
62 Foxtrot Dr.  
Farmington, NH 03835  
March 4, 2024

Farmington Zoning Board  
356 Main St  
Farmington NH 03835

Re: Variance Request for Property at Lot 20 Foxtrot Dr - Abutter's Support Letter

Dear Members of the Zoning Board,

My name is Edward Malachowski, and I am an abutter to the property located at Lot 20 on Foxtrot Drive. I am writing to express my support for the variance request made by Linda Carrier regarding her property on Foxtrot Drive.

After careful consideration and review of the variance application, I understand the unique circumstances that Ms. Carrier is facing and I fully support her request for a variance. I believe that granting this variance will not only address her specific needs but will also have a positive impact on the overall harmony and character of our neighborhood.

Please consider this letter as my support for the variance request. I trust that the zoning board will carefully weigh the merits of this application and make a decision that is in the best interest of our community.

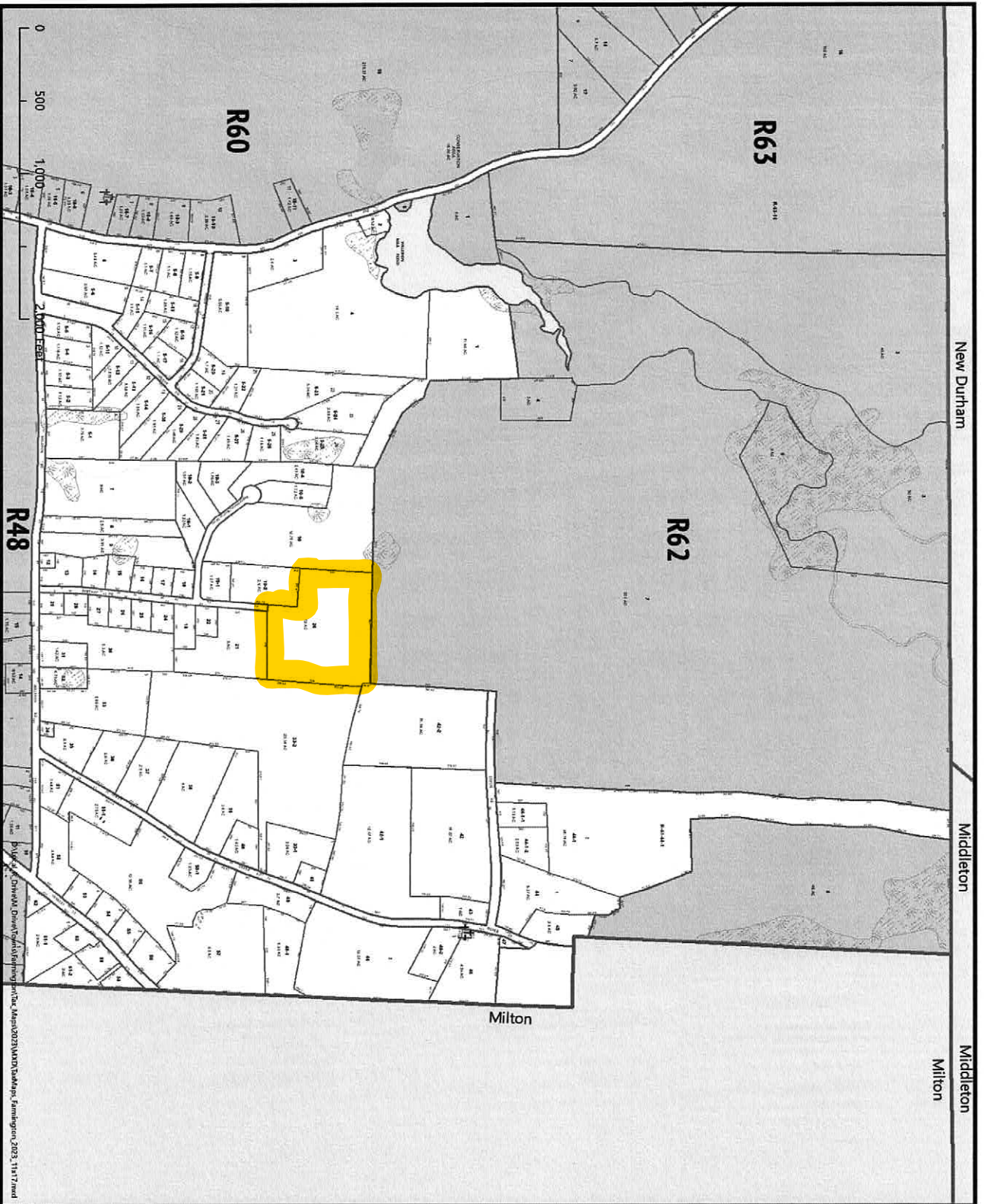
If you require any further information or would like to discuss this matter in more detail, please feel free to contact me.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Edward Malachowski". The signature is written in a cursive style with a small heart symbol at the end of the last name.

Edward Malachowski



# Map R61

TAX PARCELS MAP  
**FARMINGTON**  
 NEW HAMPSHIRE



## Legend

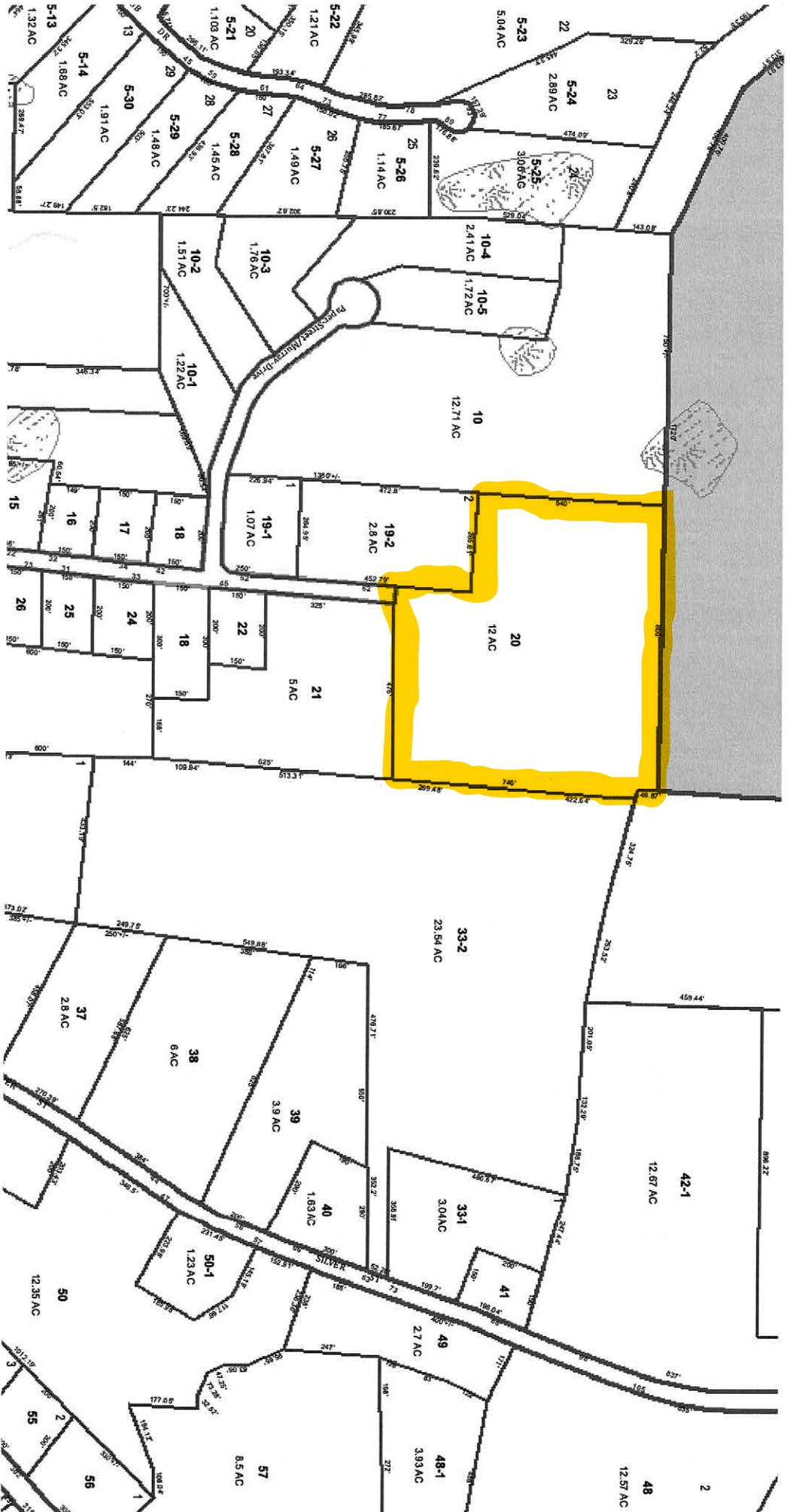
- Parcels
- Adjacent Map Sheets
- Cemetery
- Rivers and Streams
- Lakes and Ponds
- Wetlands
- Easements, Right-of-Way
- Roads

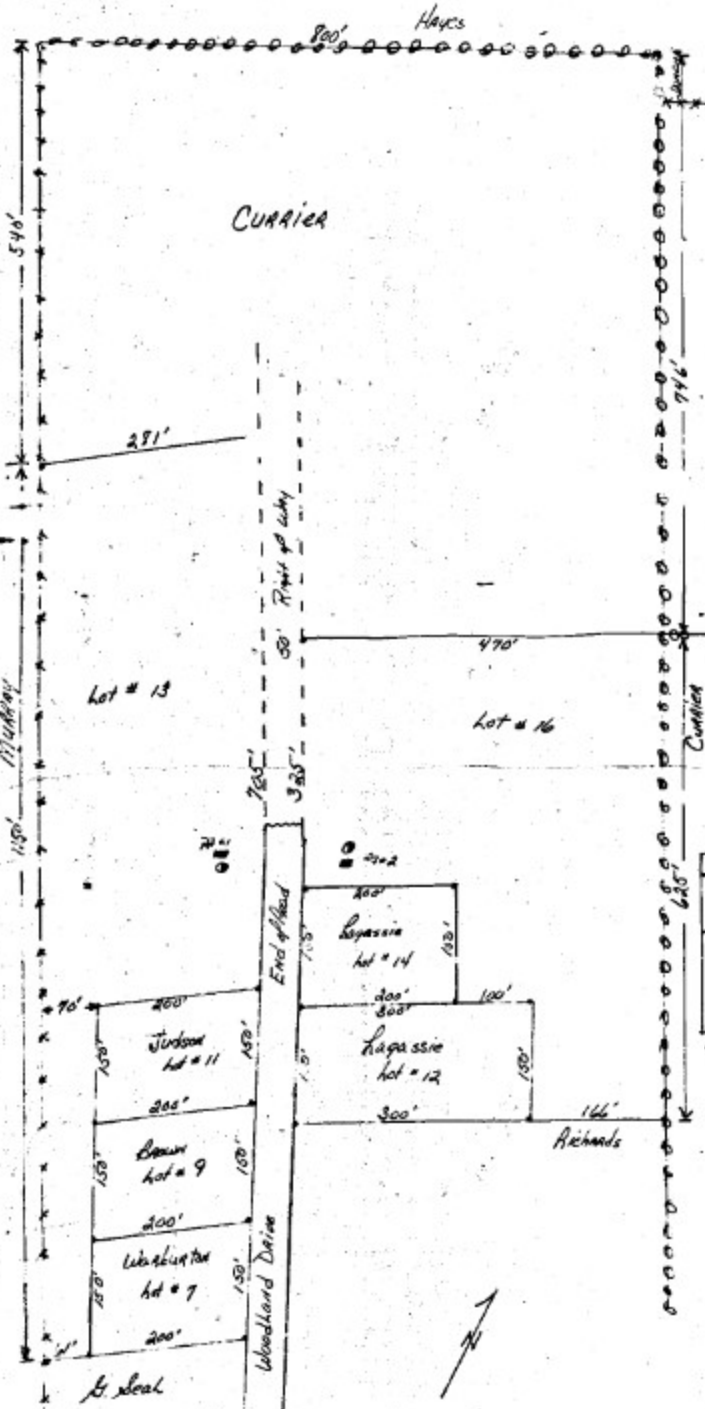
Prepared by the  
**Strafford Regional Planning Commission**  
 150 Wakefield St. Suite 12 Rochester, NH 03867  
 Phone: (603) 994-3500  
 Email: [srpc@strafford.org](mailto:srpc@strafford.org)  
 Date: 9/7/2023  
 Author: Jackson Rand SRPC

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

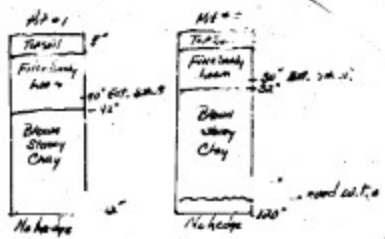
Base data layers from ESRI, NH GRANIT, and the Town of Farmington. These agencies and organizations have derived this data using a variety of cited source materials, at different time frames, through different methodologies, with varying levels of accuracy. As such, errors are often inherent in GIS data 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.







- Richard A. Judson  
Woodland Drive  
Farmington, N.H. 03825
- Robert Hayes  
Silver Street  
Farmington, N.H.
- Vernon Brown  
Woodland Drive  
Farmington, N.H.
- Wilson Dunton  
Silver Street  
Farmington, N.H.
- Robert E. Warburton  
Woodland Drive  
Farmington, N.H. 03
- Harold J. Muzzey  
123 Alpine Terrace  
Arlington, Mass.
- Walter A. Richards  
25 Pelton St  
Bangus, Ma
- Daye Hayes  
Woodland Drive  
Farmington, N.H. 03825
- George Seal  
Woodland Drive  
Farmington, N.H. 03825

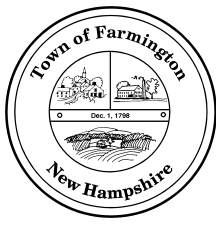


- Pez Test Conducted 4/14/76  
Results 1.15 min @ 11.2
  - Test pit location
  - Iron pipe - inches
- Scale 1" = 100'

APPROVED  
 FARMINGTON PLANNING BOARD  
 TOWN OF FARMINGTON, N.H.  
 DATE: 15 JULY 1976  
 CHAIRMAN: Robert E. Judson  
 SECRETARY: Robert K. Thompson

Charles J. Currier  
 Charles Seal  
 Farmington, N.H. 03825

RECORDS OF 6-700  
 SEARSDALE COUNTY



A Bicentennial Community  
1798 - 1998

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

March 18, 2024

Dear Abutter:

Notice is hereby given that the Farmington Zoning Board of Adjustment will meet on Thursday, April 4, 2024, at 7:00PM in the Municipal Offices Building, 356 Main Street to hold a:

**Public Hearing for a Variance by Linda M. Currier Trustee, Charles F. Currier Jr., and Linda M. Currier Revocable Trust, Tax Map R61, Lot 20.** A request has been made for a Variance under Table 2.03 (B) Space and Bulk Standards. The applicant is requesting relief to allow the issuance of a building permit on a pre-existing, non-conforming lot that does not meet the 150-foot street frontage requirement. The property is in the Rural 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**

## ***GUIDANCE FOR THE FIVE VARIANCE CRITERIA***

A variance is legal permission to violate a specific restriction in the Zoning Ordinance. It is designed to be the exception, not the rule, and the Zoning Board of Adjustment (ZBA) may only approve a variance if an applicant meets the 5-part test in State law. An applicant for a variance must answer all questions on the application plus any extra considerations required by the section of the Zoning Ordinance that is the object of the variance request. It is important to include supporting information (e.g. plans, maps, photos, expert opinions, etc.). You may also wish to seek legal advice before applying.

***PLEASE NOTE: The applicant must convince the ZBA that the application satisfies all five criteria, or the ZBA is not legally allowed to grant the variance.***

### **Criterion 1: Public Interest**

Would granting the variance have a detrimental impact on the community, including neighboring properties, community facilities, public safety, and welfare? If so, then it is not in the public interest to grant it.

- Is the proposal contrary to the intent of the Zoning Ordinance or of the specific provision involved?
- Does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?

### **Criterion 2: Spirit of the Ordinance**

Would the spirit of the Ordinance be observed if the variance was granted?

- Is the proposed use appropriate for this zoning district, or does it conflict with the purposes the Ordinance was intended to achieve?
- Are there specific statements or provisions of the Zoning Ordinance that prevent these proposed uses or the scale of these uses such that granting the variance would undermine one or more goals of the Ordinance?

### **Criterion 3: Substantial Justice**

Would granting the variance do “substantial justice”?

- Would any loss to the individual (applicant) caused by a denial of the variance be outweighed or offset by some gain to the general public?
- Would denying the variance prevent some particular harm to the public? If not, then granting the variance could do substantial justice.

### **Criterion 4: Surrounding Property Values will not be diminished**

The applicant must demonstrate it is more likely than not that surrounding property values will *not* be diminished if the variance is granted. This may be established by testimony of property owners (applicant and abutters), and ZBA members may rely on personal experience and knowledge, although expert testimony may be more persuasive.

### **Criterion 5: Unnecessary Hardship**

There are two tests for this criterion that may be addressed. Most commonly an applicant addresses 5(A). Criterion 5(B) is included in state law to address the rare occurrence when enforcement of the Zoning Ordinance and denial of the variance would deprive the owner of **any** reasonable use of the land - an unconstitutional taking.

Criterion 5(A): Owing to special conditions of the property that distinguish it from others in the area, (i) no fair and substantial relationship exists between the general public



purposes of the ordinance provision and its application to this property, and (ii) the proposed use is reasonable.

- “Special condition” is some attribute of the property itself (size, topography, soils, ledge, shape, frontage, elevation, wetlands, water bodies, existing buildings, etc.); it is not something about the property owner. The special condition must be something that causes this property to be burdened by the zoning restriction in a way that is different from other properties in the area. If you cannot identify any special conditions of the property, the ZBA cannot grant the variance.
- (i) no fair and substantial relationship between purpose of the ordinance and application to this property: look at the purposes of the specific restriction involved (what are you asking the ZBA to vary, and why does the Ordinance include that restriction?). This might be something like reducing traffic, preserving natural features, retaining neighborhood character, etc. Given the special conditions of this property, explain why allowing the proposed use would **not** lead to the harm(s) that this restriction was intended to prevent.
- (ii) the proposed use is reasonable in light of those special conditions of the property.

Criterion 5(B): Owing to special conditions of the property that distinguish it from others in the area, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is necessary to enable a reasonable use of it.

- “Special condition” is the same as above – some attribute of the property itself that means this property is affected by the zoning restriction in a way that is different from other properties in the area.
- The applicant must demonstrate that the special conditions of this property cause the particular zoning restriction at issue to affect this property so severely that no reasonable use can be made of the property **at all**.
- If the property could reasonably be used for some other purpose or in some other way, this test cannot be met.

For more information, see the NH OPD handbook “*The Board of Adjustment in New Hampshire; A Handbook for Local Officials*,” available free online at <https://www.nh.gov/osi/planning/resources/documents/zoning-board-handbook.pdf>