

Town of Farmington  
Zoning Board of Adjustment Meeting Minutes  
Thursday, September 2, 2021

**Board Members Present:**

Elmer “Butch” Barron, Chairman  
Bob Morgan  
John Scruton, Alternate  
Bill Fisher

**Others Present:**

Kristen Simard, applicant

**Board Members Absent:**

Joe Pitre  
John Aylard, Vice Chairman

**BUSINESS BEFORE THE BOARD:**

**Call to Order:**

Chairman Barron called the meeting to order at 7 p.m.  
He then seated Mr. Scruton in Mr. Pitre’s absence.

**Pledge of Allegiance:**

All present stood for the Pledge of Allegiance.

**Review of Minutes:**

June 3, 2021 – Public Meeting Minutes-

**Motion:** (Scruton, second Fisher) to approve the minutes as written passed 4-0.

**NEW CASES**

**Application for a Variance by Kristen Simard, Tax Map R-6, Lot 217:** A request has been made for a Variance under Section 4.05 Lancelot Shores Overlay District, Letter (C) Minimum Front Setback. The applicant, Kristen Simard of 1 Richard Ct., Raymond, NH 03077 is requesting a variance to construct a 23’ x 37’ (851 sq. ft.) residential home within the front setback where a minimum of 25’ is required. The property is located at the end of Squire Road in the Agricultural Residential District.

Chairman Barron read Director of Planning and Community Development Kyle Pimental’s 08/24/2021 memo stating the public hearing requirements set forth in RSA 676:7 including notifying all the abutters listed in the application by certified mail and publication of a public notice of the hearing in a newspaper have been met and copies of the abutter letter and the newspaper notice is included in the members’ packets.

He said the applicant is here but no abutters are present.

Mr. Barron then read aloud the Planner’s comments for the board to consider when discussing

the variance application with the applicant as follows:

1). The property is not owned by the applicant so the Town required a letter signed by the property owner giving permission to proceed with the variance application. He said a copy of the letter was included in the packets and should be acknowledged by the Chair for the public record.

Mr. Barron asked if the members received a copy of that letter.

The members replied that they received a copy of the authorization letter.

2). The plot plan shows the proposed location of the home in reference to steep slopes on the property. The applicant is seeking a dimensional variance for the front setback to minimize disturbance to areas with over 30% slopes. The Planning Dept. supports this approach as construction of a home on slopes 30% or greater poses public safety concerns.

3). As referenced on the application and the plot plan Squire Road was not built to match the design of the original development plan likely due to the sudden increase in slopes (as shown with contour lines) and it may have been cost prohibitive to level this area for the turnaround. It appears the road was shifted away from this area and as a result the proposed home meets the 25' setback of the as-built road conditions and the intent of the regulations.

Mr. Barron asked if it complies with the as-built why they would make her come in for a variance.

Mr. Scruton said there was a procedural item they should take care of which is to inform the applicant that she is entitled to wait if she wants to have 5 members sit on the board.

Chairman Barron said if Ms. Simard would like to be heard by 5 members she could postpone this until they can come up with the 5 members.

Ms. Simard said she has limitations on her time because she is working within a time frame.

Mr. Barron asked if she was good with 4 members.

Ms. Simard said yes.

Mr. Barron said if there was an as-built of the road which it says there was and Mr. Pimental is saying the proposed home meets the 25' setback he was guessing that they moved the road but didn't change the deed. The property line is probably where she has a problem he said.

Mr. Scruton said as he reads this it's not an as-built plan it's the as-built road condition. He said he didn't think there was any plan on that road and that the road as-built is not where the property lines are.

Mr. Barron said so it doesn't really meet the intent of the regulations but it does give us 25' to the edge of the pavement.

Mr. Scruton said they're saying there's 25' from where her house is going to be to the pavement but that's not technically to the edge of what was laid out to be the road. He said the road wasn't built where it was supposed to be and probably because of this steep area here.

The cul-de-sac is twisted up that way and I think it is this slope right here that did he said.

Mr. Barron said back in 1965 there was no Planning Board or any regulations so they could do

what they wanted.

Mr. Scruton disclosed that this used to be his father's land. He said he didn't think that would affect anything but he felt he ought to disclose it.

Chairman Barron then moved to the Facts Supporting the Request stated on the variance application which are as follows:

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

Applicant response: It will not. Permitting a variance to the front setback on the lot would be consistent with the intent of the Farmington Zoning Ordinance .The variance would allow development on an existing building lot while minimizing disturbance of sensitive areas.

Board comments: Mr. Barron said he would have to agree with that.

Mr. Scruton said he would too and moved that we agree that is a true statement.

Vote: 4 aye-0 no.

2). The spirit of the ordinance is observed:

Applicant response: Yes. Granting the variance is consistent with the purpose of creating the Lancelot Shores overlay district to mitigate some of the hardships of building on parcels in the pre-existing non-conforming subdivision. The setback determined reasonable, 25 feet would be maintained between the building and road location. The variance would allow a single-family home on an existing residential lot in an existing residential neighborhood, which is consistent with the Farmington Master Plan objective to encourage... residential development and create housing options.

Board comments: Mr. Scruton said this is well written and much better than many of these they get in here. He said he agreed with the statement and it is fairly straight forward.

Vote: 4 aye-0 no.

3). Substantial justice is done:

Applicant response: This variance would permit a single-family home on an existing residential lot. The lot is at the end of the road and the distance between the building and road would be maintained at 25 feet. This is consistent with the zoning and present use of the surrounding area. Granting this variance would allow for limited slope disturbance when developing the lot. It is just to use the lot as intended and honor the objective of the ordinance.

Board Comments: Mr. Barron agreed.

Mr. Scruton agreed and added that the observation that by doing it this way they have less of an impact on the 30% slope is a valid one that they should mention as well.

Vote: 4 aye-0 no.

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

Applicant response: Value would not be diminished. The variance would allow a single-family build on an existing residential lot in an area that minimizes impact to slopes. A setback of 25 feet would exist between the road location and build; therefore under this proposal the visual impact to the surrounding roadway and existing homes will be maintained.

Board comments: Mr. Scruton said when they build the house they want to make sure there is good drainage away from the house because when they plow the cul-de-sac they will push the snow in that direction especially with the location of the driveway so the snow is going to be right in front of her house and to take that into consideration under construction. He said he thought the statement is true.

Mr. Barron said he definitely doesn't think it will diminish the property values. He said a lot of those homes are a lot closer than 25 feet right now.

Mr. Scruton said that is the reason there is an overlay district there.

Mr. Fisher said it would be an improvement.

Ms. Simard said a lot of them pre-date the zoning ordinances and the sensitive areas elements.

Mr. Barron said they do and they have given a few variances to other ones that had other issues like wetlands.

Mr. Scruton said with the small lots there you are lucky to get a septic system and a well in there and everything else.

Mr. Barron added and without impacting your neighbor.

Vote: 4 aye-0 no.

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

Applicant response: Lot 217 was lawfully established and approved as part of the development association on August 31, 1965. The Town of Farmington's Zoning Ordinance was adopted March 13, 2001; this ordinance includes sensitive area development standards, addressing slopes in excess of 15%; this makes the lot largely non-compliant with current standards. There is one suitable location on the lot with slopes permitted for building under the sensitive area development standards. This location is within 7.8 feet of the front property boundary. However, the road was not built at the property boundary as originally drawn. Even with the issuance of a variance a distance of at least 25 feet would be maintained between any building and the road. Without the variance it is not possible to build on the lot and adhere to sensitive area development standards. The lot has no other reasonable and economically viable use other than development for a single-family home.

Board comments: Mr. Barron said the first sentence stating lot 217 was lawfully established and approved by the Town is not correct. He said at that time it was not approved by the Town and you could do a subdivision by simply doing the paperwork and filing the plan. The Town didn't even have to sign it back then he said.

Ms. Simard said it was stamped and signed.

Mr. Barron said the board did not exist at the time.

Mr. Scruton said the statement it was approved by the Town may not be valid but it was established prior to zoning.

Mr. Barron said the only other recourse would be to get a variance to the standards for the

slope.

Mr. Scruton said he prefer to have a variance to the setback than a variance to the slope. He said there is one issue Ms. Simard needs to be aware of and that is the association if they chose to be obnoxious could widen that road but he doubts they would spend the money given how hard it is to get money for paving.

Mr. Barron said in actuality they are not giving her a variance to where the road is they're giving her a variance to her boundary which is well less than half and is more like a third of the required setback and dealing with the slopes he didn't have a problem with that.

Mr. Scruton said this is a classic example of a hardship existing in the land which most people don't understand.

Mr. Barron said that is what you should have in order to get a variance.

Vote: 4aye-0 no.

Mr. Barron said they are in agreement with all 5 issues.

**Motion:** (Scruton, second Morgan) in light of the fact that we have found all 5 statements to be true that we approve the variance for Map R-6, Lot 217, Kristen Simard's application that we are considering tonight passed 4-0.

Discussion then included how well the application was written and that maybe it should be framed as an example for other applicants.

Mr. Scruton said she had a good case in that the land was the hardship and that people come in thinking their finances are the hardship or other things are hardships. It's inherent in the land that this was the least disruptive of her choices he said.

Ms. Simard said it might be cool to have the house all the way at the top but it's such a cool lot with hills and hemlock trees and it would be nicer to preserve the integrity of the rest of the lot.

Mr. Scruton thanked Ms. Simard for being concise and to the point on all her statements.

Ms. Simard thanked the board for their time.

**Any Other Business to come before the Board:** None

**Adjournment:**

**Motion:** (Morgan, second Fisher) to adjourn the meeting passed 4-0 at 7:20 p.m.

Respectively submitted

Kathleen Magoon, Recording Secretary

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Elmer Barron, Chairman