

**Town of Farmington
Zoning Board of Adjustment Meeting Minutes
Thursday, June 1, 2017**

Board Members Present:

Elmer Barron, Chairman
John Aylard, Vice Chairman
Joe Pitre
Bill Fisher, Alternate
Elise Haig, Alternate

Board Members Absent:

Joanne Shomphe, Secretary
Paul Parker

Others Present:

Arthur Capello, Town Administrator
John Scruton
Dana Littlefield

BUSINESS BEFORE THE BOARD:

Call to Order:

Chairman Barron called the meeting to order at 7:05 p.m.

He asked Ms. Haig and Mr. Fisher to be seated on the board in place of the absent members.

Review Meeting Minutes of May 4, 2017: No errors or omissions

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

Any Other Business to come before the Board: None

NEW CASES:

Variance: Application for Variance by John F. & Sandra G. Scruton Trust for property owned and located at 10 Meaderboro Road, Farmington, NH, Tax Map R07, Lot 001

request four (4) Variances from Article 2.01, Table 2.01 (B) to permit a lot that contains:

(1) less than the required 3 acres; (2) less than the required 250 feet of frontage; (3) less than the required 50 feet for the front setback; (4) a side setback of 10 feet where 15 is required. Property is in the Agricultural Residential District.

John Scruton told the board that the lot is located in Farmington and Rochester with most of the land in Rochester. He said they originally thought that the Town line went between the house and the barn but found that the line actually goes right through the middle of the house. He said he would like to subdivide the house so there are 9 feet in Rochester in the back and 4 feet in Rochester in the front. He would like to subdivide it into a lot in Rochester with the other 2 dwelling units in Farmington.

He said to do that he would like to have the setbacks meet the Rochester setback regulations as the house is predominately in Rochester. He said he already has a variance for the distance between the house and the barn which was granted in 1991 and that the dimension that is behind the house and in front of the mobile home is the one that has the most difficulty in meeting the regulations. There is 28 feet between the house and the trailer and the line would become the front setback for that lot he said.

Mr. Barron said the setback was actually a side setback with no frontage on a road.

Mr. Scruton said that would mean reducing the setback from 15 to 8 feet in order to make his plan work. The house would be compliant with Rochester zoning if there was 20 feet between the buildings. The distance between the buildings would remain the same and only the location of setback boundaries would change he said. The main 14 acre lot in Farmington would still have 250 feet of frontage in Farmington but he suggested the Rochester regulations would apply for house lot because there is only 7 feet of frontage in Farmington for that lot if subdivided.

Mr. Pitre asked where the residents of the house were domiciled.

Mr. Scruton said for many years they were considered Farmington residents but it has depended on the residents at the time as to where they wanted to go to school. He said he would like to have the portion of the lot with the house on it treated as a Rochester lot.

Mr. Barron then said they do not have a full board with the absence of the regular members and Mr. Fisher would be recusing himself because he is also a member of the Planning Board who will also hear the proposal if the variances are granted. He asked Mr. Scruton if he wished to continue the hearing or wait until the full board was seated.

Mr. Scruton agreed to proceed with the hearing with the alternate members seated.

He then said the hardship with the property is the unique situation with the town line going through the house.

Mr. Pitre asked when the actual location of the town line was discovered.

Mr. Scruton said it was discovered in 1991 and that the house and the barn were there from the late 1700's but the 2 other buildings located in Farmington were not there at that time.

Ms. Haig asked if people are living in the mobile home or if it is being used for storage.

Mr. Scruton said people are living in the mobile home.

Ms. Haig asked what year the mobile home was installed at the site knowing that the borders were so close to the units.

Mr. Scruton said it was put in during the mid '90's, probably in 1995 or 1996.

Mr. Barron asked when side setbacks were established in Farmington.

Mr. Pitre said he recalled them being established in the late 1970's.

Mr. Scruton suggested it was probably before he was granted a variance for the distance between the buildings in 1991. That variance grants setbacks at a minimum of 15 feet from the house and 20 feet from the barn he said.

Mr. Scruton said his proposal would not be a burden on anyone and said he did not want to move the proposed lot line any further into the lot with the field in order to preserve its agricultural value.

Mr. Barron asked how many acres would remain in Farmington if the subdivision proposal was approved.

Mr. Scruton said there would be approx. 14 acres left in Farmington.

He added that at some point he expected that the trailer would be removed and not be replaced.

Mr. Aylard asked if the trailer has a slab under it.

Mr. Scruton said it does have a concrete slab under it and it met the standards at the time that it

was installed there.

Mr. Barron asked if Mr. Scruton would accept as a condition of approval that once the trailer was removed it would not be replaced.

Mr. Scruton said he would accept that requirement.

Mr. Scruton added that the taxes paid to Farmington would not change as the portion of the land and buildings located in Farmington would still pay taxes to Farmington. He noted that the whole lot is considered pre-existing non-conforming lot and they would like to make the house become conforming to Rochester standards by including it with the Rochester land.

Mr. Barron then opened the hearing to public comment at 7:30 p.m.

Abutter Dana Littlefield said he owned property on Sheepboro Road but lives a long way away from here.

Mr. Barron noted that they were notified of the hearing as abutters and thanked them for attending the meeting. There were no other public comments.

Mr. Barron then asked for any other questions from the board members.

Mr. Aylard asked for clarification as to if the proposal was to split the property into 2 or 3 lots.

Mr. Barron said Mr. Scruton is proposing to split the property into 3 lots but that the board is only concerned with the 2 lots in Farmington and the third lot would be up to the Rochester Planning Board. He said Farmington has no say over the portion of the lot in Rochester or the property frontage in Rochester.

Mr. Scruton said the key point is the approval for the variance between the mobile home and the house which consists of 28 feet.

He said 3 of the variances relate to Rochester zoning for the frontage and the front and side setbacks.

Mr. Barron said there is currently no subdivision in Rochester so there is ample frontage and ample setback on the Rochester side of the property and that the portion that extends into Rochester does not concern the Farmington boards.

Mr. Scruton said that he will have to go before both the Rochester and Farmington Planning Boards for subdivision approval and the Farmington Planning Board will see a subdivision with a 150 foot frontage for the house.

Mr. Barron said if the variance is granted the Farmington Planning Board will see 7 feet of frontage for the lot in Farmington and it should not concern them.

Mr. Fisher asked when Mr. Scruton's subdivision application would be coming before the Planning Board.

Mr. Scruton said he has not yet had the property surveyed or submitted an application for a hearing before the Farmington Planning Board. He said he was considering trying to arrange a joint meeting with both the Rochester and Farmington Planning Boards to try to expedite matters.

Mr. Barron said the Farmington portion of the lot has 14 acres which is more than enough for the 2 homes currently there and then asked if the setback between the house and the trailer could be "messed" to bring the line closer to the house.

Mr. Scruton said he could increase the footage at the end of trailer from 10 feet to 15 feet.

Mr. Barron said with the increase to 15 feet Mr. Scruton would only need variances for the frontage and side setback. The rest of the property is still part of Rochester portion of the parcel he said.

Mr. Scruton asked if he would still need to have 250 feet of frontage for the Rochester portion of the property.

Mr. Barron said the Rochester portion of the land is not within the Farmington board's purview and suggested they stop talking about what will happen in Rochester. The little piece of land being created that will be about 7 feet by 100 feet by 17 feet is part of the 30 acre Rochester lot and therefore is not a substandard lot. The acreage variance should be requested in Rochester and the plan to create 2 lots in Farmington has no problem with the amount of acreage or the frontage. The only problem is with the side boundary he said.

Mr. Fisher said that what Mr. Scruton plans to do in Rochester does not affect the size of the property.

Mr. Barron then stated the following:

Variance number 1 for a lot that is less than 3 acres does not apply to Farmington,

Variance number 2 for less than 250 feet of frontage does not apply as the lot has 457 feet of frontage,

Variance number 3 does not apply because the applicant interpreted the side boundary as frontage,

Variance number 4 does apply as it is for a side setback between the trailer and the house which will be 8 feet where 15 feet is needed.

He suggested they also grant a Variance for the 7 feet to the town line in case the Farmington Planning Board would require it to avoid a return trip to the ZBA.

Facts supporting this request:

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

Applicant Response- The public interest is to preserve the rural character of the area. These houses are pre-existing and allowing them to be divided into separate lots will not change the rural character. If the house that is divided by the town line were to be sold he would not want to include an additional 100 feet of frontage from the 2 acres of field land which is used for growing corn for the farm.

Board Response- Mr. Barron said the bulk of the property will be in Rochester so it will not fall under Farmington subdivision regulations when the property is subdivided. Consensus of the board is that the proposal will not be contrary to the public interest.

2).The spirit of the Ordinance is observed:

Applicant Response- The spirit of the Ordinance is to keep the area with a rural character. This would help with doing that by reducing the amount of field land that would be impacted by subdividing off of an existing house.

Board Response- Mr. Pitre said it is important not to take farm land and to preserve the remaining agricultural areas.

Mr. Barron agreed and said a new house lot is not being created and the homes are pre-existing units. The only change will be the boundary line and that the plan is keeping with the ordinance he said. Consensus of the board was that the spirit of the ordinance is observed.

3). Substantial justice is done:

Applicant Response- Granting the variance would do substantial justice in “righting a wrong” created by governmental bodies in the way the town line was drawn through an existing house many years ago.

Board Response- Mr. Barron cited some examples of the ways property lines were delineated in the 1800’s and discussed when Rochester and Farmington became separate entities. He added that since that house was built ordinances and setbacks have changed which didn’t matter at all at that time. Consensus of the board was that substantial justice is done by this proposal.

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

Applicant Response- Allowing an existing house to be divided from the others will not change the value of the surrounding property. In fact, three of the lots surrounding the property are open fields and forest, one is a church and one is a cemetery.

Board Response- Mr. Pitre said that he did not think the proposal would negatively affect the property and may enhance it.

Mr. Barron agreed and noted there are no changes planned except for the boundary.

Consensus of the board was that the value of the surrounding properties would not be diminished.

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

Applicant Response- This is a condition that is that is unique to the land with the situation of the town line and the existing houses. There is no fair relationship between the public purposes of the ordinance and the specific application to this property. The proposed use is a reasonable one given the houses already exists. This will reduce the nonconformity by reducing the number of units on the lot that will be mostly in Farmington at the end of this process if it is allowed to proceed. It will create 2 lots in Rochester that are fully conforming to Rochester’s zoning and eliminate the need to divide off some of the field land with the house.

Board Response- Mr. Pitre said there is a hardship with the layout there and asked if zoning regulations were established after the house was built.

Mr. Barron said zoning regulations came much later after the house was built but the mobile home was put in after zoning regulations were established.

Mr. Scruton said he installed the mobile home there after the establishment of zoning regulations and admitted that it contributed to the current situation.

Mr. Barron said it certainly is a unique situation where the house has the town line right through the middle of it. He said that in itself is a hardship and that he didn’t see any alternative to address the situation. Consensus of the board was that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

Mr. Aylard asked about how the board would now go about accepting the application.

Mr. Barron said that the board should accept the application but agreed that it is definitely different from the application that was submitted to the board. He then said the application would need to be clarified to request a Variance to the side setback to allow 8 feet between the boundary and the trailer and a Variance to allow 7 feet of frontage to exist between the Rochester town line and the proposed boundary with the property to remain part of the remaining parcel.

Motion: (Aylard, second Pitre) to accept the application as amended passed 4-0-1 (Fisher abstained).

Motion: (Pitre, second Aylard) to grant the 2 Variances as per the amended application with the following conditions:

- 1). Once the existing trailer is removed from the property it cannot be replaced
- 2). Move the side setback off the end of the trailer to 15 feet and to allow 8 feet between the boundary and the setback

The motion passed 4-0-1(Fisher abstained).

Other Business: None.

Adjournment:

Motion: (Aylard, second Pitre) to adjourn the meeting passed unanimously at 8:17 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary



Elmer Barron, Chairman

The lot contains 3 residences and the town line goes through the middle of one of the homes. He said he would like to subdivide the property to create 3 lots in such a way that the house that is now located mostly in Rochester will meet the City of Rochester's zoning regulations. He proposed that one lot would consist of the existing barn and 2 housing units currently located in Farmington (14 acres), the second lot would contain the farmhouse that sits on the town line and the third lot would consist of fields located in Rochester.