

**TOWN OF FARMINGTON  
ZONING BOARD OF ADJUSTMENT MEETING  
Thursday, March 3, 2016  
356 Main Street, Farmington, NH**

**Board Members Present:**

Elmer Barron, Chairman  
John Aylard  
Joe Pitre  
Joanne Shomphe

**Board Members Absent:**

Paul Parker

**Others Present:**

Joseph Caruso  
Marie Caruso  
Matthew Mercier  
Randy Orvis  
Att. Danford Wensley  
Lisa Renzullo  
Carole Renzullo

**Call to Order:**

Chairman Barron called the meeting to order at 7:12 p.m.

**Business Before the Board:**

**Review of Minutes:**

John Aylard motioned to accept the minutes of November 5, 2015 as written; 2<sup>nd</sup> by Joanne Shomphe. The motion passed unanimously.

**Any Other Business to Come Before the Board:** None.

**New Cases:**

Application for Variance from Article 2.00 Section 2.01 (B) Space and Bulk Standards – Agriculture and Residential District and Sections 4.05 (B) Standards – Lancelot Shores Overlay District by Danford Wensley, agent (Tax Map R06, Lot 130): To allow the subdivision of a 0.4 acre parcel with 142 feet of frontage to create two (parcels). Minimum lot size is 3 (three) acres and minimum frontage is two hundred fifty (250) feet. Parcel is owned by Joseph R. Renzullo Living Trust and located at 273 Camelot Shore Drive.

Attorney Wensley of Wensley & Jones P.L.L.C. came before the board representing the applicant, Joseph R. Renzullo Living Trust regarding the application for a variance. Att. Wensley told the board that in 1995, Trustee Carole Renzullo purchased two small abutting lots with frontage on Baxter Lake. The two lots (formerly Lots 54 and 55) had 72 feet and 70 feet respectively of road frontage and 89 feet and 98

feet of water frontage. The lots were then transferred into the Trust that same year he said.

In 1998, the applicants voluntarily merged the two lots into a single lot currently known as R06, Lot 130 with road frontage of approx. 142 feet. He added they were told the lots could be un-merged at any time. Then in 2001, the Agricultural Residential zoning district provisions were adopted by the town and he noted that the majority of lots in the Lancelot Shores subdivision (developed in 1966) would not meet the current dimensional requirements (3 acre minimum and 250 feet of road frontage) of the ordinance and suggested the applicants' lot is "grandfathered" from the new regulations. He said the applicants wish to un-merge the lot and return it to two lots at their original size but are unable to do following the zoning change.

Discussion included there is an existing home on the former lot 54, if un-merged the former lot 55 would be conveyed to the daughter(Lisa Renzullo) to build a single family home, the intent and purpose of the 2001 zoning ordinance, total square footage of the lots, the Shoreland Water Quality Protection Act requirements, state subdivision requirements, town and state requirements for wells and septic systems, granting a conditional approval subject to obtaining state and town permits, the applicants also own three lots across the street which may be suitable for a septic system, the state may not approve installation of a septic system on property not contiguous to applicants' lot and the plan would need to go before the Planning Board for subdivision approval.

Chairman Barron then asked members to review the criteria for a variance.

1. The variance will not be contrary to the public interest.

Discussion included the zoning ordinance was not intended to increase the burden on the residents of Lancelot Shores, non-conforming lots already exist, subdividing the existing lot would result in similar sized lots, it is not likely to be contrary to the public interest.

2. The spirit of the ordinance is observed.

Discussion included the purpose of the ordinance is to maintain open spaces and preserve the potential for farming and farmland soils, the ordinance was not intended to take away substandard lots, was the Overlay District created to address hardships, the lots have different configurations, the applicant is seeking to restore what existed in 1966, does the ordinance prohibit further subdivision, the Simplex court case, the applicants made a conscious choice to merge the lots, denying the owner the right to use his property that is the same use as neighboring properties.

3. Substantial justice is done.

Discussion included the applicant states denial of the variance would result in a financial loss due to inability to sell the two lots separately, denial of the right to use their property as desired and is the loss to the applicant outweighed by the gain to the public, impact to the neighborhood and general public and protection of the shoreland and the lake.

4. The value of surrounding properties is not diminished.

Att. Wensley gave the board a letter from Mark Hourihane of Hourihane, Cormier and Associates stating in his opinion granting the variance would not diminish the value of surrounding properties. Board members did not discuss the letter.

5. Literal enforcement of the provisions of the ordinance results in an unnecessary hardship.

Discussion included former use standards, the legislature's change to the statute, if enforcement of the ordinance results in no reasonable use, if Lancelot Shores has no fair and substantial relationship to the

ordinance, definition of unnecessary hardship, erring on the side of property rights, the new requirement is dimensional not a use requirement, legislature did not intend to allow carving ¼ acre out of a three acre lot, does the ordinance impose greater hardship on Lancelot Shores than other properties in the AR zone, one big lot among little lots would not hurt the public interest.

Chairman Barron then opened the meeting to public comment/questions.

Resident Randy Orvis said he was concerned the water quality of Baxter Lake. He spoke about smaller lakes that have had bacteria bloom problems making the lake unusable. He said just one small event such as building one home can trigger bacteria problems and he did not favor the proposal because of the potential effect on water quality. But he also said there is precedence for allowing reconfiguring lots there as in 1992 three or four lots were combined into a 12 acre parcel that are now four acre lots. He added that he was almost positive the applicant's plan would not obtain state subdivision approval.

Resident Matthew Mercier said he lives across the street from the lot in question and noted if the new septic system were installed on the lots across the street from the applicant's lot it would also go across a driveway. He added if a new home is built on the former lot 55 it would block his view of the lake which could affect his property value.

Abutter Joe Caruso said he contacted the Building Inspector and state officials to gain more information about the proposal. He expressed concerns about the location of wells and septic systems and the safety of the drinking water. He said a representative from the state spoke to someone from the town and said the new subdivision of the lot will not meet the new state standards. He asked the board to consider the safety of their drinking water in making their decision.

Abutter Marie Caruso said the applicant paid less tax with the combined lot while the rest of the subdivision paid more taxes on their little lots for 20 years which was money that could have come to the town. Now all of a sudden they are equal to us and want things to go back to like it used to be she said. Member Joe Pitre asked if all of the abutters had been notified of the public hearing. Chairman Barron said all abutters were notified by mail except for one of the abutter's whose address was listed incorrectly. He was notified by one of the neighbors and was in attendance at the meeting Barron said.

Chairman Barron then closed the public comment portion of the hearing and asked members for comments or questions.

Discussion included the need for more information about state water quality, density and septic system regulations, clarification of "contrary to the public interest" and how to weigh the loss to the individual versus the gain to the general public. After some additional discussion consensus was the application met criteria 1, 2 and 4 but does not meet criteria 3 and 5.

Member John Aylard asked if the board was ready to make a decision or needed get more information first. Mr. Pitre said he would like an opportunity to speak with town counsel before making a decision.

Joe Pitre motioned to continue the meeting until Thursday, April 7, 2016 at 7 p.m.; 2<sup>nd</sup> by John Aylard. The motion passed unanimously.

Chairman Barron requested the applicant provide the number of square feet of the lots as depicted on the subdivision plan as they originally existed and the square footage of the lot as it is now. He also asked the applicant to provide the location of the existing septic system and the well.

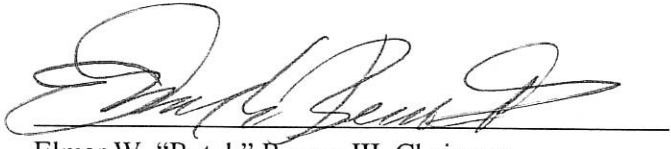
Att. Wensley asked if the board intended to get a legal opinion on the case and if he could get a copy of the town attorney's opinion. Chairman Barron said conversations with town counsel are protected and he probably would not give Att. Wensley a copy. He added the board did not intend to ask town counsel for an opinion or to make a decision for the board but are looking to ask questions and seek clarifications and explanations.

**Adjournment:**

John Aylard motioned to adjourn the meeting; 2<sup>nd</sup> by Joanne Shomphe. The motion passed unanimously at 9:30 p.m.

Respectively submitted,

Kathleen Magoon  
Recording Secretary



Elmer W. "Butch" Barron III, Chairman  
Zoning Board of Adjustment

5-5-16