

45 **Ms. Cushman made a motion to seal the minutes. Mr. Eastwood seconded the motion,**
46 **because it is determined that divulgence of this information likely would render a proposed**
47 **action ineffective. All voted in favor, and the motion passed 4-0.**
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49 **B. Case #687: Auffant Properties. LLC, C/O Samuel Auffant (Applicant) and Estate of Neil**
50 **Frederick Rowe, Marilyn Rowe Trafton, Administrator (Owner), Tax Map 14, Lot 110,**
51 **Zoned Residential Agricultural. Request for an Appeal from Administrative Decision**
52 **relevant to New Hampshire RSA 674:41, no building shall be erected on a lot with no frontage**
53 **on a road.**

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55 **C. Case #689: Auffant Properties. LLC, C/O Samuel Auffant (Applicant) and Estate of Neil**
56 **Frederick Rowe, Marilyn Rowe Trafton, Administrator (Owner), Tax Map 14, Lot 110,**
57 **Zoned Residential Agricultural. Request for a variance from Table of Dimensional**
58 **Requirements 4.2, 200 feet of continuous frontage, and the lot has zero.**
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60 Mr. Pierce recommended hearing case 689 first so that it better explains case 687.
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62 Colby Gamester, Attorney at Gamester Law, asked to hear case 687 first so that hearing the
63 exception criteria first for case 687 would better explain case 689. Bob Baskerville, Engineer from
64 Bedford Designs Consultants, added that his conversation with Vanessa Price, Town of Stratham
65 Director of Planning and Building, stated they would need a variance (case 689), and the first
66 application (Case 687) shouldn't have even been submitted, and that he doesn't mind which case
67 goes first. Mr. Gamester talks about how it might be easier to address the less stringent of the
68 criteria from case 687 first so that the second case 689 will fall into place. Ms. Price recommended
69 hearing both cases together, and Mr. Gamester agreed. Ms. Price added that there should be two
70 different votes since there are two cases, and all agree. Mr. Pierce at this time invites the applicant
71 to present their case.
72

73 Mr. Gamester starts by stating that his applicant is seeking relief from RSA 647.41 for deficient
74 frontage and the other case for deficient lot size. He adds that they will need an easement to be
75 able to get to the landlocked parcel to address the non-existence of frontage where 200 feet are
76 needed. He states that this also triggers the need for a variance for lot area, seeing that the existing
77 lot of record is under the 2 acres that are required to be a buildable lot. He talks about the history
78 of the lot and when it was subdivided and how it exists today as a taxed lot, which also has a land
79 use code of 1F, meaning Residential, even with its non-conforming use. He also adds that the lot
80 has no wetlands and good soil. He states that they will not disturb the natural vegetation in the
81 area, and the test pits confirm that it's suitable for a septic system. He goes on about the surrounding
82 lots and homes and adds that the intent of eventually building a home on the lot was for Mr. and
83 Ms. Bellows' grandson, who is Rob Cook. Mr. Gamester shows the plans for a single-family house
84 with two bedrooms to the board. He talks about Mr. Cook's relationship with Mr. Rowe, who owns
85 the property, and states that this isn't just some builder trying to make money; it's going to be a
86 house for a family that will potentially live here for years. He states that the house that is proposed
87 to be built does not infringe on setbacks or lot coverage, and the lot will be accessed via a deeded
88 easement where they will utilize the driveway on the front property.
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90 Mr. Baskerville states that he did the land surveying, engineering, and septic design for this
91 property. He adds that the access road will come from Winnicutt Road, which is a state road and
92 will need a New Hampshire DOT permit. He talks about the slope of the driveway and the slope
93 of the property. He adds that there is a shed that will have to be moved, which should not be a

94 problem. He states there are no wetlands on the property; test pits were witnessed by the County.
95 He described the location of the house, the foundation, septic, and the well. He talks about the
96 stone wall on the property and states that it's not located on the property line, theirs is 10 feet
97 further down. He continues to talk about the distance from the house to the stone wall. He adds
98 that the house will be a 1200 SQFT, two-bedroom house with a two-car garage.
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100 Ms. Jensen asked what the necessary sight lines are for the NH DOT permit, and Mr. Baskerville
101 responded 400 feet.
102

103 Mr. Gamester States that there have been several back lot cases similar to his, but he feels like this
104 property in general is simpler to deal with given the lack of restrictions imposed on the construction
105 of a house on this lot.
106

107 Mr. Eastwood asked if the owners of Lot 111 are here, and Mr. Gamester replied they are not, but
108 states that he has met with them, who are Mr. Cook's grandparents, and they signed the plans.
109

110 Mr. Gamester states discussed the variance criteria. He explains that this application will not be
111 contrary to the public interest, and it will observe the spirit of the ordinance. He states they will
112 address the other criteria when they visit the variance application for the character and the public
113 health criteria requirements. He added the ordinance purposes in Section 1.2 include promoting
114 health, safety, convenience, general welfare, orderly growth, and appropriate land use. Developing
115 this preexisting lot of record with a single-family home aligns with those by improving the
116 underlying underutilized parcel in a way consistent with the RA district. This land has been
117 separated for over 50 years, and a home here won't change the area's character as a residential
118 neighborhood. It's surrounded by similar homes as non-conforming lots to today's dimensional
119 regulations; the easement ensures safe access without any public burden, and the site's level terrain,
120 good soils, and no wetlands minimize impacts of any kind. There are no safety issues that arise
121 from this proposal. The Residential/Agricultural districts, spirit and intent, per Section 3.4.21, are
122 low-density residential and agricultural uses, preserving rural character. The variance allows
123 reasonable use without overcrowding or urban sprawl, for the home will be modest, setback
124 compliantly, and still maintain open space on the .993-acre lot. Substantial justice will be done.
125 Any loss to the individual not outweighed by public gain is an injustice, and denying relief offers
126 no public benefit here. The non-conformities don't harm the public; those including the neighbors
127 and the abutters, it would cause significant loss to the owner and the applicant if the lot remained
128 undevelopable for residential use, despite being taxed as such for decades, rendering it essentially
129 worthless. As raw land or recreation, which really isn't practical, seeing as it's landlocked, Justice
130 supports productive use of the preexisting law, consistent with New Hampshire precedent,
131 preventing undue restrictions on property rights. Third criterion: the values of surrounding
132 properties will not be diminished. This area has single-family homes, mostly one-acre lots, but in
133 some areas, two-acre lots as we move farther down. The proposed home will be architecturally
134 compatible. It is a modest design, an art form design. It's going to be sized relative to the
135 neighboring lots; the wooded boundaries will minimize visual impact, and as stated in the
136 narrative, it's not as if they are just dropping a house in someone's backyard. The lot is already
137 defined naturally, let alone by its metes and bounds in the stone walls; the law is defined by that
138 satellite imagery of the wooded growth on two sides of it as to the abutters; of course, the private
139 easement avoids a brand new curb cut on Winnicutt Road, and the level site prevents drainage or
140 other issues for abutters. Literal enforcement of the ordinance would result in unnecessary
141 hardship. So first, there are special conditions owing to this property. It's a pre-1968 non-
142 conforming backlot with fixed boundaries, historical severance, which created no frontage on

143 Winnicutt Road whatsoever, but it is still ideal for development with level land, with no wetlands
144 and good soils; it can't be expanded to conform, unlike larger parcels would have. And these traits
145 create unique hardships or unique circumstances of this lot. Second, there's no fair and substantial
146 relationship to the ordinance's purposes and strict application as it applies to this lot and this and
147 the variance relief requested herein; the RA's district goals of adequate space and no overcrowding
148 and safe access are met. The site supports a safe residence without strain; enforcing 200 feet of
149 frontage on this .993-acre back lot really doesn't advance those purposes or what they're trying to
150 avoid, as it exceeds needs for low impact development. And third, the use is reasonable. It's a
151 single-family dwelling permitted by. Right in Section 3.6, complying elsewhere with the
152 regulations.

153

154 Ms. Cushman states that the board had a similar case where the easement wasn't recorded on the
155 deed and stated to the applicant to make sure that this easement gets recorded.

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157 Mr. Gamester agrees.

158

159 **Mr. Pierce opens the meeting to public comment.**

160

161 Steven Spund, 17 Humes Court, started by mentioning the criteria of public harm, in this case
162 personal impact, could be affected because the septic of the proposed house is 20 feet from his
163 well head. He states that he is concerned about that and asked what could be done to remedy that
164 issue. He recommends that it might be a better idea to be placed in the front of the house to give
165 them more space from his well head.

166

167 Ms. Cushman clarifies with the board and Mr. Baskerville that the distance is 122 feet, and the
168 state requirement is 75 feet from a well.

169

170 Mr. Spund asked why the septic couldn't be moved to another spot on the lot. Mr. Baskerville
171 responded that it's due to the sloping of the lot; he would need the pipe to flow downhill. If the
172 leach field is uphill from the tank, they would have to install pumps, which is not cost-effective.

173

174 Mr. Eastwood asked Mr. Spund if an additional 50 feet would give him a better feeling for the
175 septic placement, and Mr. Spund replied maybe it should, but he was unsure.

176

177 Mr. Baskerville added that the state has been doing this for over 50 years and they take these
178 concerns into making these regulations.

179

180 Chad Fletcher, 18 Humes Court, asked what the width of the shared driveway is and Mr.
181 Baskerville responded 12 feet.

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183 Mr. Fletcher states that he is concerned that this new driveway will create one big open area. Ms.
184 Price and Mr. Baskerville responded with the regulations from NH DOT and the Town.

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186 Ms. Jensen stated that this board would be considering the variance for the frontage, and not the
187 layout of the site. She also stated a lot of concerns from the public about setbacks and distance
188 from the septic to the well for the site will be reviewed by a different board. Ms. Cushman said no;
189 the approval for those concerns will be done by the State for the septic. Ms. Cushman talked about
190 septic standards from the state regulations. Ms. Jensen asked if, when those plans are reviewed and
191 approved, anyone will get notified. Mr. Pierce said most likely not.

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Mr. Pierce made a motion to close the public part of the hearing and move to board deliberations. All in favor.

Mr. Pierce suggests that they deliberate on the cases separately. Ms. Price clarifies the cases. Mr. Pierce starts the discussion with case 687 with frontage restrictions, and he says that the owners have been paying taxes on the property since the 1950's.

Mr. Eastwood makes a suggestion to the board that a right-of-way easement gets recorded on the deed as a condition of approval. The board agrees. He also adds that they will need DOT approval as a condition of approval. The Board agrees.

Mr. Eastwood makes a motion to approve the application for Case #687: Auffant Properties, LLC, C/O Samuel Auffant (Applicant) and Estate of Neil Frederick Rowe, Marilyn Rowe Trafton, Administrator (Owner), Tax Map 14, Lot 110, Zoned Residential Agricultural. Request for an Appeal from Administrative Decision relevant to New Hampshire RSA 674:41, no building shall be erected on a lot with no frontage on a road and subject to the following conditions:

- 1. An easement shall be recorded for the addition of a right-of-way running from Winnicutt Rd through 119 Winnicutt Rd to Lot 110.**
- 2. DOT approval for the driveway for the shared driveway.**

Ms. Cushman seconded the motion. All voted in favor, and the motion passed 4-0.

Mr. Eastwood addressed the board about case 689 and whether the applicant meets the variance criteria and findings of fact.

He read into the record that the **criteria of the variance will not be contrary to the public interest and will observe the spirit of the ordinance.**

The board discussed that the house fits the lot, and there are other one-acre lots in the area, there are other homes of similar size, and it is an appropriate use of the land. The board agrees that surrounding lots have similar homes.

Mr. Eastwood addresses the board and reads the variance criteria into the record to ensure that **substantial justice is done.**

Ms. Cushman states that the lot doesn't have any value without a house.

Mr. Eastwood stated they have been paying the taxes on the property.

Ms. Cushman stated that it has existed as a lot of record for almost 60 years.

Mr. Eastwood addresses the board and reads the variance criteria into the record that the **values of surrounding properties are not diminished.**

Ms. Cushman states that the surrounding lots are similar size.

239 Mr. Eastwood stated it appears from the aerial photos there is a tree line that acts as a buffer. He
240 suggests to the board some sort of condition of approval that the buffer does not get removed.
241

242 Mr. Pierce disagrees due to who will be responsible for observing that buffer doesn't get disturbed.
243

244 Ms. Cushman stated when looking at the photo that abutters can look into the property for most of
245 the year due to the treelined.
246

247 Mr. Pierce states that the house size is reasonable for that lot and the driveway has the least impact
248 as possible and is in a reasonable location. He expressed it is a great design.
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250 Ms. Jensen states that the existing stone wall provides a natural buffer and doesn't see a need for
251 additional buffers.
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253 Mr. Pierce stated that the neighbors could also plant some natural buffers if needed.
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255 Mr. Eastwood addressed the board and read the variance criteria into the record that the **literal**
256 **enforcement of the provisions of the ordinance would result in an unnecessary hardship.**
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258 Mr. Pierce states that the applicant would not have a reasonable use of the lot if it wasn't buildable.
259 He said that not granting the variance would make the lot unbuildable.
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261 Mr. Eastwood stated that the proposed use is reasonable.
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263 From the board's deliberation, all the criteria for a variance have been met.
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265 **Ms. Cushman makes a motion that the Zoning Board of Adjustment grant the variance from**
266 **section 4.2 table of dimensional requirements to allow a home to be built on a lot with no**
267 **frontage, where 200 feet is required, as the Zoning Board of Adjustment has determined that**
268 **the application meets all of the variance criteria subject to the board's deliberation. This is**
269 **subject to the following binding conditions: The variance will become invalid if not executed**
270 **within two years of the notice of decision, and the conditions that put on case 687, are also to**
271 **be applied.**

272 **Mr. Eastwood seconded the motion. All voted in favor, and the motion passes 4-0.**

273 Ms. Jensen wanted to state the additional two conditions for the record. The recording of the
274 easement.
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276 Mr. Pierce states the other was the DOT permit.
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278 **Ms. Cushman amended the motion to include the two additional conditions. Mr. Eastwood**
279 **seconded the motion. All voted in favor, and the motion passed 4-0.**

280 **Mr. Eastwood made a motion to enter non-public session at 8:45 p.m. for RSA 91-A:3, II(c).**
281 **Ms. Cushman seconded the motion. All voted in favor, and the motion passed 4-0.**
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283 **Mr. Pierce made a motion to exit non-public session at 8:51 p.m. Mr. Eastwood seconded the**
284 **motion. All voted in favor, and the motion passed 4-0.**

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Public Session reconvened at 8:51 p.m.

Mr. Eastwood made a motion to seal the minutes. Ms. Cushman seconded the motion because it would affect adversely the reputation of any person other than a member of this board. All voted in favor, and the motion passed 4-0.

Mr. Pierce made a motion to seal the Non-public Meeting minutes; Ms. Cushman seconded the motion. All voted in favor, and the motion passed 4-0.

Other board business discussion included chair and vice-chair nominations of the board, NHDOT upcoming meeting, and town-wide clean-up day upcoming meeting.

Ms. Cushman made a motion to nominate Mr. Peirce as Chair and Mr. Eastwood as Vice Chair; Ms. Jensen seconded the motion. All voted in favor, and the motion passed 4-0.

Ms. Price discussed the NHDOT meeting for the light at Bunker Hill and RT 33 on April 9th; she also discussed the trash cleanup day on April 25th. She added that the town has an interim building inspector.

4. Adjournment

Mr. Pierce made a motion to adjourn at 8:55 pm. Ms. Jensen seconded the motion. All voted in favor, and the motion passed.

Respectfully submitted by Michael Lamb