

TOWN OF MILFORD

Office of Community Development

Planning • Zoning • Building Safety • Code Enforcement • Health
Economic Development • Active Projects



Administrative Review

Date: June 23, 2020
To: Jason Plourde, Chair, Zoning Board of Adjustment
From: Lincoln Daley, Community Development Director
Subject: **Case #2020-14: Christina McMahon for the property located at Milford Tax Map 47, Lot 62, 34 Ball Hill Road - Variance Application**

The applicant is before the Board of Adjustment seeking a VARIANCE from the Milford Zoning Ordinance, Article V, Section 5.04.4. to create a 1.5 acre lot where a minimum of 2 acres are required for a parcel in the Residential 'R' district. In reviewing the files for this property, I offer the following comments:

1. Existing Conditions:
 - a. The subject property is approximately 4.52 acres in area and contains a single-family house centrally located on the lot. The property is primarily undeveloped and is serviced by a private well and septic.
 - b. The property contains more than 1,200 linear feet of frontage on Ball Hill Road and 153 linear feet on Melendy Road.
 - c. Access to the single-family residence is from Ball Hill Road.
 - d. The subject property is situated in an established single-family residential area. To the west of the subject property on Ball Hill Road are single-family homes on properties varying in size from 1.28 acres (Map 47 Lot 63-2) to more than 2 acres. To the north, south, and east lie single-family residences that also range in acreage from 1.28 (Map 47 Lot 62-1) to in excess of 2 acres and conservation land.
2. The applicant is seeking to subdivide 1.5 acres from the southern portion of parent lot to build a single-family residence. The proposed lot would have approximately 300 linear feet of frontage on Ball Hill Road and be serviced by a private well and septic. Similar to the parent lot, the driveway access would be on Ball Hill Road.
3. The proposed 1.5 lot conforms to all dimension requirements of the Zoning Ordinance with the exception of the required 2 acre minimum for a property in the Residential 'R' Zoning District. Pursuant to Article V, Section 5.04.4, a Variance is required to create the 1.5 acre lot.



ZBA Application

MILFORD ZONING BOARD OF ADJUSTMENT

GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS

Date Received: 5/29/20/6-22-20
 Case Number: 202074
 Application Number: 2020 0850
 Hearing Date: 7-2-2020
 Decision Date: _____
 Decision: _____

PROPERTY INFORMATION

Street Address: 34 Ball Hill Rd
 Tax Map / Parcel #: Tax Map 57/ Lot 62/ 234 Lot Size: 1.5 acres

PROPERTY CURRENTLY USED AS

Single family residence

If the application involves multiple lots with different owners, attach additional copies of this page.

PROPERTY OWNER

Name: Normand Laquerre, Fleurette Laquerre
 Address: 34 Ball Hill Rd
 City/State/Zip: Milford NH
 Phone: () 603.673.2370
 Email: laquerren@aol.com

The applicant is the person who is making this proposal on behalf of themselves, the owner or a third party. This is usually the same as the property owner, but might be a tenant, someone who plans to purchase the property, an engineer or lawyer, etc. If the applicant is the same as the owner, just check "Same as owner" and leave the rest of this section blank.

APPLICANT/REPRESENTATIVE

SAME AS OWNER
 Name: Christina McMahon
 Address: 63 Burnt Swamp Rd
 City/State/Zip: East Kingston, NH 03827
 Email: christina.mcmahon@live.com
 Phone: () 603.300.2110 Cell: () (same)

The undersigned property owner(s) hereby authorize(s) the filing of this application and agree to comply with all code requirements applicable to this application.

Normand V. Laquerre 06/06/2020
 Property Owner's signature Date:

Zoning District (check one):

- Residence A
- Residence B Residence R
- Commercial
- Limited Commercial
- Industrial
- Integrated Commercial-Industrial
- Integrated Commercial-Industrial-2

Overlay District (check any that apply):

- West Elm Street Overlay
- Nashua/Elm Street Overlay
- Commerce & Community Overlay
- Open Space & Conservation
- Wetlands Conservation
- Groundwater Protection
- Floodplain Management

APPLICATION FEES

Application Fee:	\$75.00
Abutters Fee: <u>\$4 x 5</u>	\$20.00
Amount received:	\$95.00
Date Received: <u>ck 10/1</u>	
Check <input checked="" type="checkbox"/> Cash <input checked="" type="checkbox"/>	

THE FEES ASSOCIATED WITH THIS APPLICATION DO NOT APPLY TO ANY OTHER FEES REQUIRED FOR APPROVAL OF THIS PROJECT. PLANNING, IMPACT, BUILDING AND OTHER FEES MAY APPLY.



ZBA Application – Variance
MILFORD ZONING BOARD OF ADJUSTMENT

5/29/2020/6/22/20

Date Received: 2020-14
 Case Number: _____
 Application #: _____
 Date Complete: _____
 Hearing Date: 7-2-20
 Decision Date: _____
 Decision: _____

PROPERTY INFORMATION
Street Address: 34 Ball Hill Road
Tax Map / Parcel #: Tax Map <u>5</u> / Lot <u>234</u> <u>47/62</u>
<i>A Variance is a use which is not permitted by the Zoning Ordinance. Approval from the Zoning Board of Adjustment is required to allow any use or deviation from the Zoning Ordinance. Please work with the Zoning Administrator to make sure your application is complete and you know what will be required of you at the hearing.</i>
What section of the Zoning Ordinance are you asking to be varied? Article <u>5</u> Section <u>5.04.4</u>
Describe the variance you are requesting under the above section of the Ordinance. This request is for a reduced lot area within the Residence "R" District; the existing lot was previously surveyed and subdivided under former zoning regulations which have since been revised. Due to the location of the existing residence the lot line can not be adjusted to accomodate the full 2 acres, resulting in the proposed lot area of 1.5 acres.

General Criteria Section 10.01

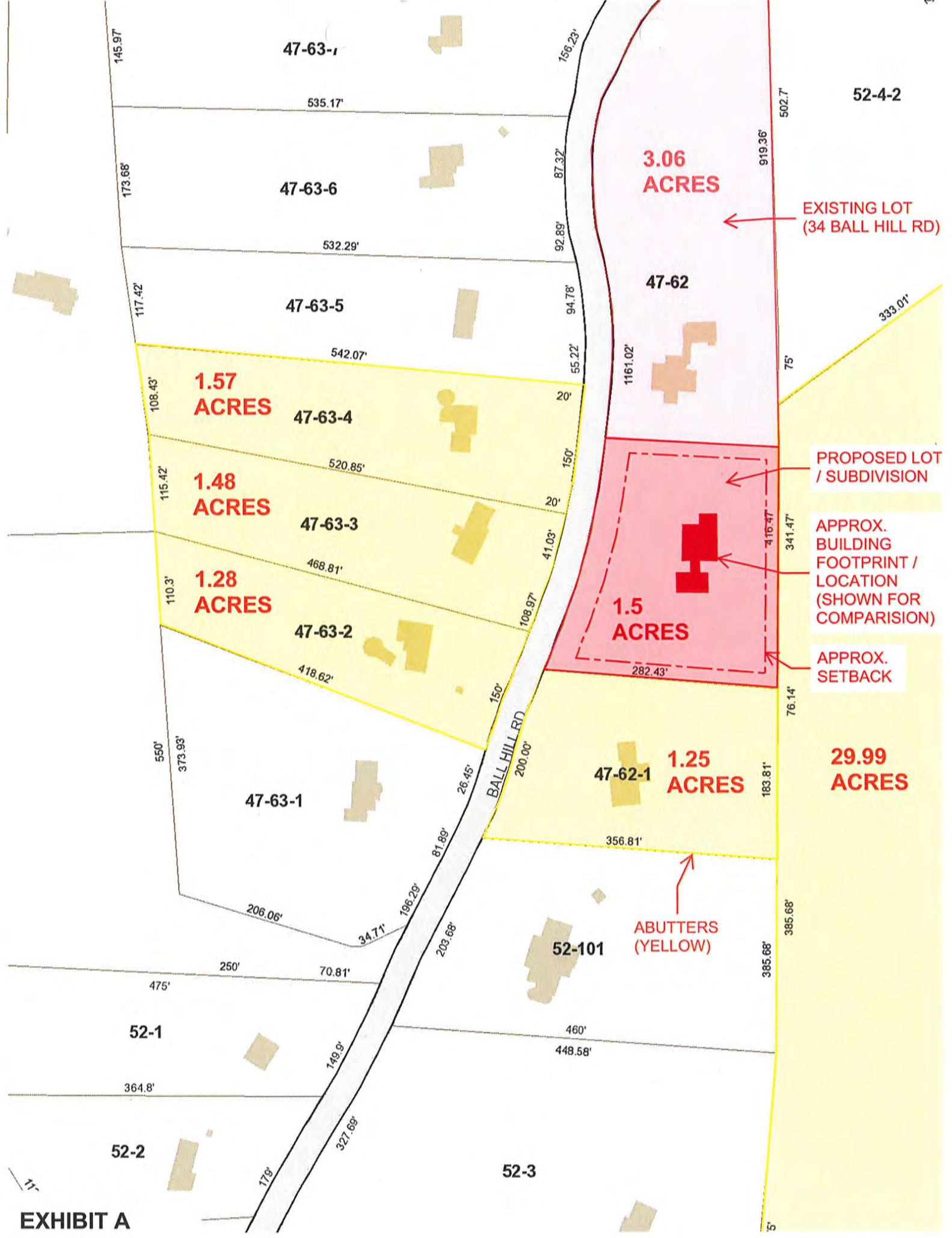
Explain how the proposal meets the following conditions per New Hampshire RSA 674:33.I

- Granting the Variance would not be contrary to the public interest because:
 The proposed parcel maintains similar density, exceeds the required road frontage and will maintain the same use (single family residential) within its neighborhood.
- If the Variance were granted, the spirit of the ordinance would be observed because:
 The proposed parcel remains consistent in character to adjacent lots in both size and use.
- Granting the Variance would do substantial justice because:
 The property owner, now 94 years old, would like to subdivide the property based on criteria set forth by the previously approved subdivision executed in 1987.
- Granting the Variance would not diminish the value of surrounding properties because:
 The proposed parcel exceeds the lot area and road frontage of the previously subdivided adjacent lot.
- Unnecessary Hardship:
This section is the central portion of your argument and is the critical factor that the Zoning Board of Adjustment will need to determine what is unique to your property and not generally applicable to other properties in the area or in town.



ZBA Application – Variance
MILFORD ZONING BOARD OF ADJUSTMENT

A. Owing to special conditions of the property that distinguish it from other properties in the area; denial of the Variance would result in unnecessary hardship because:
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 because :
The proposed parcel is based on a plan set forth by a previous survey / approved subdivision completed by the owner. The proposed parcel was always intended to be sold (at the appropriate time) and the prior subdivision was designed based on former zoning regulations which have since changed. Due to the location of the existing residence the lot line can not be adjusted to accomodate the full 2 acres, resulting in the proposed area of 1.5 acres.
AND
ii. The proposed use is a reasonable one because:
The proposed parcel remains consistent in character to adjacent lots in both size and use.
(B) Explain how, if the criteria in paragraph (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:
The current lot configuration is longer than it is deep, with an existing residence located towards the center. While the lot conforms to the intent of the current zoning ordinance based on frontage requirements it does not quite allow the 2-acre minimum lot area which, in strict conformance with the Ordinance, would prohibit further development. Based on the aforementioned criteria it is believed that the proposed development would remain consistent with the spirit of the Ordinance in use and density.
(C) Notwithstanding paragraph (B) above, a Variance may be granted without finding a hardship arising from the terms of the Zoning Ordinance when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:
n/a
1. The Variance requested under this paragraph shall be in harmony with the general purpose and intent of the Zoning Ordinance because:
See above.
In addition, Variances may have extra criteria that must be met. This includes, but is not limited to: 6.03.5 Floodplain Management: The criteria for evaluation is listed in 6.03.5:B General Conditions and the applicable conditions are listed in 6.03.5:C. If your project is covered by this regulation, include your answers to the required criteria as specified in the referenced Section of the Milford Zoning Ordinance as an attachment under Section 3 C. of this application.
ATTACHMENTS – additional information may be needed to help the Zoning Board of Adjustment fully understand your petition. A. A plan of the property and all buildings, drawn to scale, is required. B. A Building Permit Application as needed (to be determined by the building official.) C. Additional explanations, justification, abutters’ statements, letters, etc.



47-63-1

535.17'

47-63-6

532.29'

47-63-5

542.07'

1.57
ACRES

47-63-4

520.85'

1.48
ACRES

47-63-3

468.81'

1.28
ACRES

47-63-2

418.62'

47-63-1

206.06'

52-1

364.8'

52-2

52-3

52-4-2

3.06
ACRES

47-62

1.5
ACRES

47-62-1
1.25
ACRES

PROPOSED LOT /
SUBDIVISION

APPROX.
BUILDING
FOOTPRINT /
LOCATION
(SHOWN FOR
COMPARISON)

APPROX.
SETBACK

ABUTTERS
(YELLOW)

29.99
ACRES

TO:

Town of Milford Zoning Board of Adjustment

ATTN: Kellie Walsh and Lincoln Daley

1 Union Square, Milford NH 03055

603.249.0600

kwalsh@milford.nh.gov

ldaley@milford.nh.gov

www.milford.nh.gov

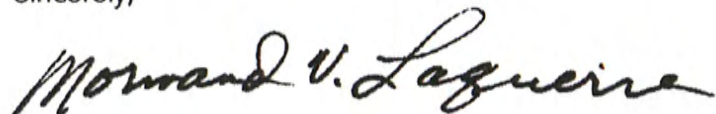
May 12, 2020

To Whom it May Concern,

I, Normand Laquerre, am writing this letter to authorize Christina McMahon to act on my behalf with regard to the property I own at 34 Ball Hill Road in Milford NH. This representation pertains to correspondence and application forms required from your office henceforth as it relates to the possible variance and subdivision of this property (Tax Map 5, Lot 231).

Please feel free to contact me at any time should you have questions about this matter.

Sincerely,



Normand Laquerre, Property Owner

34 Ball Hill Road

Milford, NH 03055

laquerren@aol.com

603.673.2370

ATTN:
Town of Milford Zoning Board of Adjustment
1 Union Square, Milford NH 03055
603.249.0600
www.milford.nh.gov

May 29, 2020

Hi there,

To whomever is reading I hope this letter finds you well. I'm writing in regard to a recently submitted zoning variance application pertaining to Tax Map 5 / Lot 231 since it only felt right to explain the circumstances for this application before stepping back to let things run their course. I'll open by saying that Normand Laquerre and I are recent friends due to an unlikely turn of events. It all started with me reaching out to him about a different matter which led to the discussion of who we are, what we've done with our lives and the eventual proposal of subdividing this property.

To explain a little about myself: I was born and raised a native of southern NH and this has always been the only place I want to call home. I've been looking for property over the last six years or so which has included lots, fixer-uppers, auctions, you name it. I've battled against over-asking offers. I've gone through several house inspections. I've worked with civil and structural engineers trying to make properties work which eventually had to be turned away from. All of this after finishing graduate school at the end of a recession (which yielded few jobs in my field and at low pay) right up to now when the market is beyond the reach of anyone with a single income and graduate school loans. In the midst of an era full of DIY-ers / HGTV rehabbers the entire market has skyrocketed and saying that it's hard to make a real place for yourself without encumbering massive debt along the way feels like an understatement.

Normand is a World War II veteran and native to southern New Hampshire as well. He purchased a large plot of land along Ball Hill Road back in the 1960's which was subdivided into many of the lots that are there now. He comes from a time where acres were sold for tens of dollars - not thousands. He once sold an easement on his property for a single dollar because of the principle of the circumstance. He makes promises on handshakes and treats them as contracts which is a policy he said he has sworn to throughout his entire career in negotiations. He's never owed a mortgage and he lives comfortably on the savings he earned from wise investments. In the end I hated to send your committee this application without an explanation of the specific circumstance and with the appearance of trying to convince you of Normand's 'hardship'. Normand has no hardship. He did not set out to sell this property at all let alone in the interest of financial gain. He extended a hand when he felt it was needed and I trust this is true to the character he's displayed throughout his life. I can promise you the offer he presented to me is not something I will likely see again in my lifetime and I still do not know