

**Town of Sanford**  
**Zoning Board of Appeals**

The Sanford Zoning Board of Appeals held a meeting on Monday, March 28, 2011 at the Sanford Town Hall. The meeting was called to order at 7:08 P.M. by the Chairperson of the Zoning Board of Appeals, Mark Patterson

Members Present:

**Mark I. Patterson, Chairperson**  
**Paul A. Demers, Vice Chairperson**  
James T. Wendel  
Naila Aslan-Khan  
Kyle Landry

Also Present:

Shirley Sheesley, Chief Code Enforcement Officer  
Jamie Cole, Code Enforcement Officer

Mark immediately addressed the appeal of Justine Farley, 51 Oak Hill Road, Sanford, Maine 04073. Justine Farley is requesting an Administrative Appeal for her property listed above, Map R21, Lot's 5 & 6. Property is located in the Rural Residential Zone (RR) and the Shoreland Zone.

Mark next addressed the conflict of interest with respect to the applicant. A negative response from the Board prompted the Chairperson to call upon the Code Officer to give a brief statement as to the action that gave rise to the appeal and the basis for it.

The Chief Code Enforcement Officer, Shirley Sheesley, addressed the Board stating the cause which gave rise to the appeal was the result of a letter, to the appellant, dated February 17, 2011. The appellant was appealing the letter from Codes stating that the information was incorrect and not accurate. At the request of the Chairperson, a copy of the letter was submitted to the Board for their review.

Mark confirmed with the appellant that she was the owner of record. This was also agreed to by the CEO.

The Board took a few minutes to review the letter of February 17, 2011.

Acknowledging that all Board members had ample time to review the letter, Mark stated that this was an administrative appeal according to Section 280-23 of the Town Ordinance.

Paul Demers, Vice Chairperson, indicated he was at one time an official Code Officer who had prior working knowledge of the property and asked if this could be open for discussion.

Mark asked the appellant if she found this a conflict. The appellant responded by saying “no”. Mark next asked Shirley (CEO) and she also answered “no”.

With all Board members responding in the negative, Mark next asked the appellant what remedy relief she was seeking before the Board continued with the appeal.

The applicant responded by saying she had three (3) properties on Bauneg Beg and she believed that Shirley’s reference to the deck on the lake side as well as the street side of the house referred to 47 Sunny Lane. According to the applicant, everything got put into one file. All of the bullet items listed in the letter according to the appellant is for 47 Sunny Lane.

Mark asked the CEO if she could pull up the GIS map so as the Board listened to the appellant describe the properties in her presentation they would be able to follow along. Mark also indicated that he wanted to view the property prior to the hearing but was told he could not unless the group went together.

Justine Farley told the Board that the decks mentioned in the letter of February 17, 2011 were there when she purchased the home. The only thing she had done was remove the stairs facing the lake to the side of the house. As to the deck itself, it was done in “pine” and they resurfaced the deck in “cedar”.

**Pause, while waiting for the GIS map to come up on the screen.**

Shirley identified the property as shown on the screen.

Justine Farley also identified the various lots and structures as shown.

Mark asked the applicant how one would access the road to her property on Sunny Lane. Justine Farley said it was off of Route 4, just before Waban’s facility. Before the name was changed to Sunny Lane it was known as East One (1).

Next, the appellant took the floor stating that it all started when they were looking to refinance and an appraiser, after going through their house, came to view the Town’s file and noted that her enclosed porch used to be a living room. He also stated that the Town was not showing their decks as well. This is what prompted the applicant to make a visit to the Code Office for the purpose of meeting with Shirley. During the meeting a time was established for Shirley to visit and inspect her home at 51 Oak Hill Road.

During that visit, Justine Farley showed Shirley a picture of her son when he was one year old, (he’s 28 years old today), sitting on the front porch. According to her presentation, Justine Farley moved into their home in 1981 and purchased it in 1984. After Shirley left her home, she received the letter from Shirley of February 17, 2011. Her intent was to get the Town’s records to marry up with their records/current conditions of the home so they could go forth with refinancing.

Mark indicated that he thought there might be photographs of the lakeside cottages taken by the Assessor's office, and queried Paul if he had any recollection of the Town doing that.

As presented by the applicant, Lots 5 and 6 are associated with 51 Oak Hill Road and Lots 4 and 4A as her grandparents' lots, although they own these lots today. Peter J. Farley and Justine own the property. The lot adjacent to 51 Oak Hill Road has a cottage on posts which also belongs to the Farleys, Map R21, Lot 4 and 4A. Lot 4 and 4A are currently vacant. Septic is located on the front of the lot. The septic for 51 Oak Hill is located on lot 6, while the house sits on lot 5.

Justine Farley indicated she had no old pictures of 47 Sunny Lane to show the Board for comparison. They had taken the hip roof and made it a gable roof, as explained to the Board. The cottage was also picked up and relocated away from the water (47 Sunny Lane).

Paul asked Shirley if she could show a file for 47 Sunny Lane. Shirley answered in the affirmative. The appellant further stated that the cottage was moved, beyond the 75 foot requirement, placed on a full foundation where it was gutted out and rebuilt. She also recalled at the time, John Garvin (Code Officer), telling her she was approximately 140 feet from the water line.

Justine Farley gave detailed descriptions on renovations made to 51 Oak Hill Road, including a side door to the basement. She produced pictures for the Board to view as she described the home.

Justine Farley stated that the home had a full basement with a first and second floor. Her plan was to put all of the bedrooms on the top floor.

When Paul asked if the basement had access toward the front of the home facing the lake side Justine responded by saying "no". The only means of exiting the basement was through the side door.

She next gave driving instructions to her properties and how to enter the lot(s) from Rt-4 in Sanford. She further deliberated and strongly believed that all lots were initially combined into one file under the property listed for 47 Sunny Lane. She produced a picture of her son taken in 1983 on the front porch of Sunny Lane. When Mark asked if her son was with her this evening she responded by saying "no" but he did live at 47 Sunny Lane.

When asked by the chairperson as to her contention, she replied by saying that all renovations and construction were for 47 Sunny Lane, which they had permits and not for 51 Oak Hill Road. With the exception of moving the stairs to the side of the home where she has resided since 1981, no other changes were made to the structure at 51 Oak Hill Road.

The deck was not enlarged toward the lake side of the home but was rebuilt with pressure treated wood. The deck toward the street, (front) side of the home, was replaced using “cedar”. No major upgrades, only improvements.

At the request of Mark, the applicant passed her pictures for the Board to view.

Paul asked the applicant as to when the stairs were moved from the lake side of the cottage to the side of the cottage.

The appellant responded by saying somewhere around 1984 the stairs were moved. She further produced plans from her husband’s uncle that he put together for possible changes to the actual dwelling. To her recollection, the plans were done in 1987 or 1988. She passed the plans to the Board for viewing.

More discussions centered on the roofing, the current roofing and the proposed roofing done by the uncle.

When asked if the plans were denied by the Codes Officer in 1987 for 51 Oak Hill, Justine Farley said “no”, they were not submitted for 51 Oak Hill but were submitted for 47 Sunny Lane for which the work was done.

After the Board viewed the plans along with the available pictures from the appellant, Mark asked the Board if they had any questions for the appellant.

With no further questions from the Zoning Board the pictures and the plans were returned to the applicant.

Mark next asked if the Code Officer had any rebuttal as to what was presented by the applicant.

Shirley thanked the applicant for the material brought to the ZBA and also for the invitation extended to Shirley to visit her home on 51 Oak Hill Road. Shirley immediately addressed the file dilemma explaining that the Town keeps a file on each individual property, not combined as noted earlier by the appellant. Some of the information from the Code Officer agrees with the appellant while some information does not. Shirley went forth with her presentation so the Board could make their own decision. The Code Officer also reminded the Board that this was an administrative appeal. It could be confusing where there are multiple properties owned by the same person.

Next, Shirley produced the file for 47 Sunny Lane for the purpose of showing the Board exactly what was in the file while bringing up the property for the Board to view on the screen.

Mark asked Shirley if she had inspected 47 Sunny Lane as well. Her immediate comment to the Chairperson was that she had been out there many times and was familiar with the property. The Assessors Tax Card shows a 20’ x 32’ building on the property.

When asked by the Board if this was the information for 47 Sunny Lane and not for 51 Oak Hill Road, she replied in the affirmative. The card is current and reflects any changes made in the past. Shirley pulled an inspection log done by John Garvin in 1991, following the inspection of the foundation, (prior to moving the structure). The Code Officer also pulled the building permit issued to relocate the structure to the foundation, signed and approved by the Code Officer in 1991, John Garvin. The plot plan was also shown to the Board showing the proposed setbacks for the new location.

The current mapping shows the property at 47 Sunny Lane approximately 114 feet from the water.

Shirley returned to 51 Oak Hill Road on the GIS mapping showing the original parcel and how close it was to the actual water. The purpose of the demonstration was to point out how difficult it would be to get the properties mixed up. The footprint may be similar but the distance to the water is certainly clear. The footprint on 51 Oak Hill is 24' x 29', plus the porch. Again, similar but not the same.

The Code Officer pointed out that there was very little in the file for 51 Oak Hill. There was a letter from Codes to the appellant and a chronology of events done by the Code Officer as an example. When looking at the back Lot, Number 6, many questions surfaced. In the file for Lot 6 she found a set of drawings that matched some of the work done on Sunny Lane.

The plans for a roof change were found in the file, "loose", for lot 6. The plans show a hip roof all the way around the structure. The drawing also shows the structure is much closer to the lake and; hence, why the Code Officer felt the drawing was for 51 Oak Hill.

When Mark asked the appellant who drew the plans, Justine Farley responded by saying she didn't know.

When the CEO viewed the actual property and saw the gable roof, she thought the roof at 51 Oak Hill had been altered without a permit, especially after viewing the drawings in the file for lot 6 showing all hip. Also in that file was a permit which had been denied in 1988 because it was too close to the water. Shirley did state that it was possible that it had been misfiled but she could only go by what was in the file.

The appellant said that everything went to the mailbox for 51 Oak Hill Road and could have added to the confusion.

Paul asked if there was a denial for a roof change in the file for 47 Sunny Lane. Shirley said "no", the permit in that file reflects the relocation of the structure away from the water and no drawing or permits issued for a roof change.

Mark asked Shirley how many bedrooms were on the second floor. Shirley said there were two (2) bedrooms on the second floor for the property in question (51 Oak Hill Road). Also, Shirley confirmed with Mark that there was one (1) bedroom on the first floor and another bedroom in the basement.

Justine Farley told the Board there were three (3) bedrooms at Sunny Lane.

Shirley informed the Zoning Board that the current tax card, done recently, showed a 10' x 20' deck facing the road, a 24' x 29' building with an enclosed porch (7' x 22'), and another deck facing the water. Also, an unfinished basement was showing on the current tax card. The current tax card was compared to the tax card of 1987. Shirley clarified the meaning of FAT on the tax card....meaning Finished Attic.

Paul asked the appellant if she accessed the home from the side door and if the basement was finished.

The applicant responded by stating the basement was a finished basement and confirmed that they access the home via the side door.

Shirley also made note to the tax card and the capitalized letters (FOB) which stands for "finished open porch".

Naila questioned the "old" tax card (1987) showing (2) bedrooms and the new card (2011) showing (3) bedrooms.

When John Garvin inspected the home, he told the appellant that with the sewer line installed, he credited the home as a (3) bedroom. The appellant continued stating that her home is a (4) bedroom home, regardless of the sewer line, as it was a bedroom when she purchased the home.

Mark asked about the egress windows in the basement. Justine said the basement has a window and a door for egress. You can also get to the basement from the first floor as she reiterated to Mark.

The CEO next told the Board that she went out to the house on (2) separate occasions and took pictures. As she displayed the photos on the screen, she discussed with the Board what each picture represented. When visiting the residence, Shirley noted the difference in age of wood used for the porch. On March 23<sup>rd</sup>, Shirley revisited 51 Oak Hill and took more pictures. Once again, she projected the pictures on the screen for the Board to view.

As noted from her pictures, evidence supports work done without a permit or planning board review. She explained to the Board that what she saw did not justify a repair (less than 50%), but was instead a complete replacement (requiring a permit). She also elaborated on a nonconforming project where if you wanted it replaced, it would require planning board approval before it could be authorized.

Next, Mark asked if the Board had any questions they would like to address to the Code Officer.

When Mark asked the appellant if the roof had ever been changed, the appellant said “no”, but immediately asked Mark about the “shingles” on the roof. Mark said “yes” and Justine responded by saying “no”.

Paul made the statement that it did not appear that the roof at 51 Oak Hill was ever changed. The tax card of 1987 is showing a hip/gable roof, hip on the front and gable on the back.

Paul asked about the bedrooms and their location, followed by the septic system replacement and when that was done. Justine thought the septic was done in the mid 90’s and was done for a (3) bedroom home, not a (4) bedroom home, according to John Garvin, CEO, at the time of the inspection. The applicant told John that she didn’t care what they told her about a fourth bedroom but the home was purchased with the fourth bedroom and she plans to continue it as a (4) bedroom home.

Mark asked if there was anyone in the audience wanting to submit evidence in favor of the appeal.

Mark asked if there was anyone in the audience wishing to speak in opposition of the appeal.

Hearing no response on the above Mark turned the meeting over to the appellant for the final word.

Before commencing, the applicant asked Shirley if the Board had received the package she submitted with the appeal. Shirley told the appellant the package was submitted to each Board member.

Paul recapped the meeting to this point and confirmed with Shirley they should only focus on 51 Oak Hill Road and not the other properties at this time.

Mark questioned as to when the side patio was installed. The applicant advised that it was built (2) years ago by her husband.

Mark told the applicant that the patio would require a permit as the property is located in the shoreland. He had other concerns such as the deck which was not on the 1987 plans and addressed his concerns to the applicant. Having expressed some of his concerns he told the applicant that they may have to do a site visit as there was too much stuff going on with the property.

Several minutes of conversation among the Board members with additional input regarding the hip/gable roof, etc., etc., etc. The original stairs was another point of interest to the Board as to where they were positioned on the lake side of the cottage and did they terminate at the bottom where the walkway took them to the lake front. All agreed there should have been a permit to move the stairs. Paul addressed the patio to Shirley.

With the snow cover gone, Shirley did state that the patio was also an issue and was not a part of the original violation because of the snow.

With no further questions to the appellant, Mark closed the meeting to the public for the Board to deliberate on the evidence gathered.

With the Chairperson in agreement, the Board wanted to further deliberate the (5) points of Shirley's letter to the appellant dated February 17, 2011. With interest, both the appellant and the CEO exchanged conversation regarding the stairs to the second floor.

Once again, Mark closed the meeting to the public for the Board to deliberate. A motion to close the meeting was made. The motion was seconded and the Board closed the meeting to the public for the Board to deliberate.

Following deliberation, a motion was made by Jim to schedule a site walk of the property listed at 51 Oak Hill Road and to include all copies of data submitted from the appellant and the CEO, plus any additional photos from the owner. Also, Mark emphasized the importance of seeing the inside of the home, as well as the outside. If the Assessor's office has any older tax cards, copies of those would also be appreciated. The motion was seconded by Kyle and the Board voted 5 – 0, in favor.

Mark suggested the record be kept opened until the site walk was done and the necessary information gathered for the next scheduled ZBA hearing, on April 11, 2011. Paul made a motion to carry over to April 11, 2011. Motion was seconded by Kyle.

Next, Mark reopened the meeting in order to confirm a date for the site walk.

The site walk was scheduled for 5:00 P.M., on Friday, April 8, 2011, at 51 Oak Hill Road, Sanford, ME. Everyone is to meet first at the upper Waban Parking lot, off of Route 4, so all can go as a group. Shirley advised the ZBA to limit their discussions until the next ZBA hearing.

Paul is working with Sherry Lord to reschedule the three members of the Zoning Board who have not attended the mandatory meeting for all ZBA and Planning Board Members.

Motion to adjourn was seconded and the meeting adjourned at 9:13 P.M.