



Board of Adjustment  
PO Box 120  
Town of Fremont, New Hampshire 03044  
Minutes of July 28, 2009  
Approved August 25, 2009

Members present: Chairman Doug Andrew, Member John (Jack) Downing, Jack Baker and Alt/recording Secretary Meredith Bolduc.

Mr. Andrew opened the meeting at 7:30 pm.

Mrs. Bolduc reported that Member Scott Boisvert had contacted her to say that due to a conflicting appointment he would not be able to make it by 7:30 tonight, but hoped to attend shortly thereafter.

#### MINUTES

Mr. Downing made the motion to accept the minutes of the June 23, 2009 meeting as written. Motion seconded by Mr. Andrew with unanimous favorable vote except for Mr. Baker who abstained as he was not present for that meeting.

#### PLANNING/ZONING 2009 EXPENDITURE REPORT

The Members reviewed the Planning/Zoning expenditure report as of July 23, 2009 which reflected expenditures for office supplies, postage, advertising, recording, mileage training and printing.

#### BUDGET

The Board reviewed a draft of the Planning/Zoning Board budget for 2010 that was previously as reviewed by Mr. Andrew and Mrs. Bolduc. Mr. Andrew said that the Planning Board will also review it and that the Land Use Boards (Planning and Zoning) have an August 20, 2009 appointment with the Board of Selectmen to present the final draft to them.

The Board agreed to recommend the following lines to remain unchanged;

- #002 (office supplies) \$1,500 - with the rational that the same amount will be needed for office supplies in 2009.
- #300 (Postage) in anticipation of an increase in applicants.
- #004 (Professional services) - \$5,000 - with the rational that this line is used to fund outside services and technical assistance for ordinance, regulation, CIP preparation and Master Plan

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- updates most of which need to be done on an annual basis.
- #005 (Advertising) - \$2,500 - This line covers the expense for advertising of public meetings and hearings as required by statute. Applicants reimburse the majority of expense in this line. The Town pays for advertising of zoning changes, regulation changes etc. This line was reduced in 2009 to more accurately reflect the past two years spending. Remains flat for 2010 in anticipation of an increase in applicants.
  - #006 (P/Z office equipment) \$200 – covers warranties for 2 printers in the Land Use Office.
  - #007 (recording fees) \$150 - there is no way to project what (or how many) documents will need to be recorded and what those fees will be.
  - # 010 (Mileage) \$500 Mileage reimbursement cost of seminars attended by members. This is mostly spent near the end of the year for reimbursement due to timing of incidental spending and workshop attendance. The Town records newly approved plans and approvals. This line includes mileage round trip to Brentwood for recording plans. Reimbursed fully by applicants. Also includes round trip mileage for other Land Use Office related trips. The current mileage rate is .44/mi. This line was increased by \$200 in 2009.
  - #020 (matching grants) \$3,000 – The rationale for this line is that Rockingham Planning Commission annually awards Targeted Block Grants, which is a matching fund grant where RPC pays 50% and the Town pays 50%, in amounts ranging from \$1,500 to \$3,000 for planning assistance typically for updating one or two Master Plan Chapters. The Town's portion must be appropriated in order to even apply for the matching grant. If it is not appropriated the Town does not qualify for the TBG and loses the ability for discounted assistance.
  - #035 Training & Conferences \$750 - This line covers the cost of Planning/Zoning training at various cost and participation per session.

The Board agreed to recommend a line change in:

- #109 (printing) \$600 - this covers printing of the Master Plan, Capital Improvement Plan and all regulations. This was increased to \$800 last year, but the full amount was not used so it can be decreased back to last year's amount.

#500 (Circuit Rider Planner) \$----- This amount is not yet available.

This was increased last year to cover three additional months due to Rockingham Planning Commission changing their contract year from the beginning of April to the end of June. Where the contract would normally have been from April 1 to April 1, last year it went from April 1 to June 30 – fifteen months instead of twelve. This line should decrease this year to reflect the normal twelve month contract.

The recommended changes to the draft of the 2010 Planning/Zoning budget resulted in projected decrease of \$200.00 over the 2009 operating budget.

There was some discussion relative to the rationale and budget of the expenses vs. the revenue generated. It was noted that the revenues go back into the general funds to offset taxes.

Mr. Downing made the motion to recommend the 2009 Planning/Zoning budget as stated above.

Motion seconded by Mr. Baker with unanimous favorable vote.

At 8:05 Mr. Andrew appointed Mrs. Bolduc as an alternate to the Board for this evening, taking the place of Scott Boisvert who still had not arrived.

Case # 09-001  
Eleanor S. Emery  
MAP 3 LOT 017

Present: Owner Eleanor S. Emery, Gary Emery

Mr. Andrew opened this portion of this Public Hearing at 8:05 p.m. and explained that this is a continuation of the June 23, 2009 portion, which was continued to this date to allow time for the June 30, 2009 site visit and for the applicant to revisit for compliance conditions D, F and M of the Zoning Article IV-A. Mr. Andrew re-read Article IV-A of the Fremont Zoning Ordinance.

Mr. Andrew stated that there is not a full five Member Board present and related to the applicants that they have the option of waiting for the presence of a full Board for any decisions. Mrs. Emery opted to move forward with the four members present.

Mr. Andrew and Mr. Downing met with Mrs. Emery at the site on June 30, 2009 and viewed the interior and exterior downstairs portion of the split-level style house that includes the existing living space that Mrs. Emery is requesting to be allowed to continue to use as an in-law apartment for her daughter. Mrs. Emery had previously said that the apartment has been there and used by her daughter for 9 years, but there was never a permit for conversion or occupancy. It was understood that there were some rooms that are not considered part of the in-law unit, but are part of the primary residence. It was agreed that would be signs on the doors of those rooms - computer room, utility/boiler room and staircase – indicating that they are not part of the in-law unit space.

Mr. Andrew stated that the Ordinance describes an In-law/accessory apartment as:  
*An apartment within a single family residence. An in-law apartment is defined as “a separate living space within a single family dwelling unit consisting of separate sleeping, cooking and bathroom facilities and which is intended to be occupied by an in-law or in-laws of a member of a family unit occupying the main part of the dwelling” and meeting the following criteria:  
In-law apartments may be occupied only by members of the family unit occupying the main part of the dwelling or by in-laws of a member of said family unit. The applicant must satisfactorily demonstrate that said apartment will be utilized only in this fashion. The occupancy or rental of an in-law apartment by persons other than in-laws, as defined in this ordinance, is expressly prohibited.*

The following conditions were re-addressed as agreed at the June 23, 2009 portion of this Public Hearing.

Condition D = Mrs. Emery submitted a written certification stating that “the downstairs computer room, stairwell and utility room are being used as storage for the primary residence.” Mrs. Emery also submitted a re-drawn sketch of the layout of the in-law/accessory unit adjusted for interior

space/size only. Mrs. Bolduc noted that some of the dimensions of the individual rooms in the draft drawing submitted seemed to be wrong in that the total footages did not calculate to the footprint of the building of 24' x 50'. The Board used the interior perimeter dimensions of the building (22' x 48') which came to 1056 sf, deducted 321 sf which is the square footage of the areas that are used as part of the primary residence i.e.; boiler/utility room = 132 sf, computer room = 131.4 sf and stairwell = 57.6 sf. The result was that the in-law/accessory unit calculates to 735 sf. Mrs. Emery issued a signed document agreeing with these dimensions.

Mr. Andrew stated that he wished to make it clear that the Board is in no way considering approval or denial of a specific floor plan for the requested in-law/accessory apartment. The Board agreed.

Condition F = The Building Official issued a July 28, 2009 correspondence stating that proper certification in the form of a new septic design has been provided. The following must be set as a condition if approved: *The septic facilities of this site are in-adequate for the number of bedrooms. A new septic system design has been approved for a five (5) bedroom design and must be the design installed upon failure of the existing system. The previously approved system design N.H. Department of Environmental Services (NHDES) # (does not exist); the new approved system design NHDES # CA2009097709 is for five (5) bedrooms.*

Mr. Emery asked if they were obligated to install the 5 bedroom design if there were less than 5 rooms being used as bedrooms at the time the system should need to be replaced. Mrs. Bolduc explained that the condition is that the system designed and approved is the one that must be installed upon failure of the existing system, so the answer is yes. The Board agreed. Mrs. Emery stated that there are actually 5 total bedrooms in the house.

Condition M = In his July 28, 2009 correspondence the Building Official reported that "Initially I had visited the site and found the smoke detectors did not provide for "interconnection". There are a total of two smoke detectors existing at the site, one for each floor or tenant – these now function inter-connectedly." This alarm system was pre-existing.

There was a conversation relative to Condition N and it was agreed by the Board that this is not applicable because this is an existing living space with no occupancy permit issued at the time of it's creation in 2000.

Mr. Andrew polled the Board and it was the unanimous consensus of the Board that the conditions of Article IV-A present under which the exception may be granted have been addressed.

After careful review by the Board, Mr. Downing made the motion that, based on the information presented, and on the Boards determination that the exception is allowed by the ordinance and the conditions under which the exception may be granted have been met, the Fremont Zoning Board of Adjustment grant the Special Exception from Article IV-A of the Fremont Zoning Ordinance, and pursuant to all Sections of Article IV-A, as requested by Eleanor S. Emery to allow the property use at 182 Main Street, Fremont, New Hampshire, Map 3 Lot 017, to include an In-Law Apartment. This approval is conditioned upon compliance with all of the provisions of Article IV-A of the Fremont Zoning Ordinance and with the following additional conditions:

1. This Special Exception decision shall be recorded with Rockingham Registry, indexed under the name of the property owner.
2. Upon the cessation of occupancy by an immediate family member, the owner hereby acknowledges and purchasers are put on notice, that the in-law/accessory apartment is to be used only by immediate family members and no others, and that no variances from this provision shall be obtained permitting any other use.
3. The septic facilities of this site are in-adequate for the number of bedrooms. A new septic system design has been approved for a five (5) bedroom design and must be the design installed upon failure of the existing system. The previously approved system design N.H. Department of Environmental Services (NHDES) # (does not exist); the new approved system design NHDES # CA2009097709 is for five (5) bedrooms.
4. Variances to this Special Exception may not be granted.
5. NH RSA 676:17 shall apply.

Motion seconded by Mr. Baker.

Vote on the motion:

Mr. Downing =	yes
Mr. Baker	yes
Mrs. Bolduc	yes
Mr. Andrew	yes

Mr. Andrew declared the Special Exception granted and instructed the applicant that there is a thirty (30) day appeal period during which Selectmen, any party to the action or any party directly affected may apply for rehearing on any question of this determination.

This decision will be recorded at the Rockingham Registrar of Deeds.  
Mrs. Emery submitted payment for the recording fees.

Mr. Downing made the motion to close this Public Hearing at 8:40 pm  
Motion seconded by Mr. Baker with unanimous favorable vote.

## MEMBERS

The Members discussed the lack of enough Members to make a full Zoning Board of Adjustment. There is a real need for at least one additional member and up to four more alternates. Mrs. Bolduc stated that there have been no responses to an article posted on the Town web site, in the Newsletter, at the Town Hall and the Post Office seeking new members of all the Land Use Boards. It was noted that as per HB-44 that has been approved by the House and Senate, as of August 21, 2009 the Chairman of a land use board is authorized to designate an alternate to fill a vacancy on the board until the appointing or designating authority fills the vacancy. The Board has one alternate at this time who can be used to fill the Board.

ORRESPONDENCE

There was no incoming correspondence.

Next meeting: scheduled for August 25, 2009.

At 8:50 pm Mrs. Bolduc made the motion to adjourn.

Motion seconded by Mr. Downing with unanimous favorable vote.

Respectfully submitted,

Meredith Bolduc, recording secretary

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