



Board of Adjustment  
PO Box 120  
Town of Fremont, New Hampshire 03044  
Minutes of May 26, 2009  
Approved June 23, 2009

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

Mr. Andrew opened the meeting at 7:30 pm and appointed Mrs. Bolduc as an alternate to the Board for this evening, taking the place of absent Member Scott Boisvert.

#### MINUTES

Mr. Downing made the motion to accept the minutes of the April 28, 2009 meeting as written. Motion seconded by Mrs. Bolduc with unanimous favorable vote.

The Members discussed the fact that there are not enough Members to make a full ZBA. There is a real need for at least one additional member and up to four more alternates. Mrs. Bolduc stated that there is an article posted on the Town web site and at the Town Hall and the Post Office seeking new members of all the Land Use Boards.

#### WORKSESSION

The Members reviewed and conducted general discussions relative to the following. There were no decisions made during these discussions.

1. RSA 674:33,I (b) – UNNECESSARY HARDSHIP

The Board continued discussion on House Bill 446 which repeals RSA 674:33, I (b) defining “unnecessary hardship” for purposes of zoning variances. This bill has passed the House and is in the Senate for approval (or approval with amendment). Mrs. Bolduc reported that according to the NHMA Legislative Bulletin #21 the Senate Public & Municipal Affairs Committee on May 21, 2009 continued its hearing on the bill. This bill would eliminate the distinction between “use” and “area” variances created by the NH Supreme Court’s decision in *Boccia v. City of Portsmouth*. The bill would return the law to its status as of five years ago, before the *Boccia* decision, when all variances were subject to the standard established in *Simplex v. Town of Newington*. This means that the definition of “unnecessary hardship” shall apply to both use variances and area variances and both would be subject to the same standard. This bill was introduced at the 2009 session and proposed to be effective January 1, 2010 if it is passed.

2. There was a general discussion on HB-44; an act relative to the use of alternates by local land use boards. This would authorize the Chairman of a land use board to designate an alternate to fill a vacancy on the board until the appointing or designating authority fills the vacancy. This would take effect 60 days after passage. Currently, an alternate can only fill the position of a regular member who, for some reason, cannot serve in his capacity.

3. The Board received and reviewed the packet of recent legal updates of court decisions and legislation that Mrs. Bolduc acquired at the recent annual Spring OEP Planning and Zoning Conference. Discussions from information in the packet focused on hardship, appeals, Equitable Waiver criteria and timely filing of an application or appeal.

#### CORRESPONDENCE

There was no incoming correspondence.

Next meeting: scheduled for June 23, 2009.

At 9:10 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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