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January 26, 2022

CONFIDENTIAL ATTORNEY
CLIENT COMMUNICATION

VIA E-MAIL ONLY (landuse@fremont.nh.gov)

Leanne Miner, Land Use Administrative Assistant
Town of Fremont – Town Hall
295 Main Street
Fremont, NH 03044-0120

Re: Town of Fremont – Woodman Lot Line Adjustment

Dear Leanne:

I reviewed your January 21, 2022 e-mails and the attached documents which included the Woodman lot line adjustment application, the Lot Line Change Plan, color plans with the existing and proposed lots, Rockingham Planning Commission's review, an abutter's concerns, and Chairman Paul Powers' notes. Paul Powers wanted to know whether the Planning Board's position on the application is appropriate. The Planning Board's position is that the proposed changes to the nonconforming lots must meet the current Zoning Ordinance requirements. As explained below, the Planning Board's position that the proposed changes to the nonconforming lots must meet the current Zoning Ordinance requirements or receive a variance is appropriate.

You confirmed that the two existing lots, Lots 4-55 and 3-62-1, are not buildable lots. Lot 3-62-1 is a small triangular lot created by a surveying error and Lot 4-55 is covered by wetlands. The Lot Line Change Plan, Sheet 1, Note 4 states that the purpose of "exchanging four (4) parcels of land [is] to provide building area to lots 62-1 and 55."

Minor lot line adjustments are defined in the Subdivision Regulations as those that do not create buildable lots. Subdivision Regulations, Article II, Section 6, A-1. Minor lot line adjustments do not require a public hearing and do not need to comply with all the Subdivision Regulations. If a lot line adjustment does not meet the definition of a minor lot line adjustment, the application must have a public hearing and comply with the Subdivision Regulations. One of the requirements of the Subdivision Regulations is that a proposed subdivision conform to the Zoning Ordinance. Article III, Section 1(A).

The Zoning Ordinance in Section 505.1 provides that "All non-conforming structures and uses which predate the adoption or amendment of this ordinance may continue in their present use." The expansion of a nonconforming use is addressed in Section 502 which states:

Except as noted below [expansion of nonconforming structures], an expansion of a non-conforming use is prohibited except by variance by the Zoning Board of Appeals.

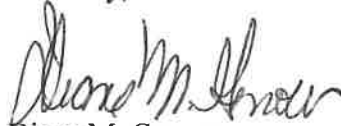
A variance is not required if the expansion is a natural expansion which does not change the nature of the use, does not make the property proportionately less adequate, and does not have a substantially different impact on the neighborhood.

Rockingham Planning Commission noted that the new layout for Lot 62-1 does not create a greater non-conformity. However, it did not address the other factors in Section 502. It is reasonable to conclude that changing two non-buildable lots into two building lots changes the nature of the nonconforming use and also has a substantially different impact on the neighborhood. Therefore, the proposed lots must either comply with the Zoning Ordinance or obtain a variance.

You wanted to know whether the legal notice needs to be revised. Although the notice references an incorrect RSA, the notice does not need to be revised because it accurately describes the application as it was submitted which is a lot line adjustment.

If you have any questions, please let me know.

Sincerely,



Diane M. Gorrow

E-mail: gorrow@soulefir.com

DMG:sds



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Please respond to our Exeter office.

January 31, 2022

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Planning Board
Town of Fremont
295 Main Street, P.O. Box 120
Fremont, NH 03044-0120

**Re: Woodman Family Revocable Trust
Lot Line Adjustment Application
Map 3, Lot 62; Map 3, Lot 62-1 and Map 4, Lot 55**

Dear Chairman Powers and Fellow Board Members:

I represent the Woodman Family Revocable Trust with respect to this lot line adjustment application. I have spoken to Tim Lavelle about the Board's initial discussion of the Woodman's lot line adjustment application, and I have reviewed the January 26, 2022 legal opinion prepared by Attorney Gorrow. There appears to have been some confusion about the purpose of the lot line adjustment application. It is my understanding that the existing undeveloped lots shown as Map 3, Lot 62-1 and Map 4, Lot 55 on the plan would be non-conforming lots under the terms of the Fremont zoning ordinance even if the proposed lot line adjustments are granted, and thus the applicant would need to obtain variances from the Zoning Board of Adjustment in order to create buildable lots.

As the proposed lots are undeveloped, there is no expansion of a non-conforming use that is occurring. The facts of this application fully support the Planning Board granting the proposed lot line adjustments, following which, the applicant will need to apply for variances to address any aspects of the lots after the lot line adjustment that do not meet the requirements of the zoning ordinance.

Thank you for your consideration.

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Very truly yours,

DONAHUE, TUCKER & CIANDELLA, PLLC

A handwritten signature in dark ink, appearing to read "John J. Ratigan". The signature is fluid and cursive, with the first name "John" and last name "Ratigan" clearly distinguishable.

John J. Ratigan

jratigan@dtclawyers.com

JJR:nes

cc: Diane Gorrow, Esquire
Mark and Cheryl Woodman

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