



FREMONT PLANNING BOARD
December 7, 2011
Meeting Minutes
Approved December 21, 2011

Present: Chairman Roger Barham, Vice-Chair John (Jack) Karcz, Selectman Brett Hunter, Member John (Jack) Downing, Alternates Andy Kohlhofer and Chris Silk, RPC Circuit Rider Brian Groth, Building Official Bob Meade and Land Use AA/Recording Secretary Meredith Bolduc.

Mr. Barham opened the meeting at 7:10 pm.

MINUTES

Mr. Karcz made the motion to approve the minutes of the November 16, 2011 meeting as written.

Motion seconded by Mr. Downing with unanimous favorable vote.

SEACOAST UNITED SOCCER CLUB (SUSC)
Map 6 Lot 020-001

The Board received a November 2, 2011 correspondence from the Selectmen and Conservation Commission to Paul Willis of SUSC relative to tree cutting and violations to the approved site plan and the Conservation Restriction Deed that is on the property.

The Board also received a November 30, 2011 correspondence from Chris Albert of Jones & Beach Engineering, Inc. to Fremont Conservation Commission Chairman Janice O'Brien in response to the November 2, 2011 letter. He advised that Jones & Beach has been retained by SUSC to undertake the restoration actions as identified in that letter. They conducted a November 22, 2011 site walk and have been in contact with Eben Lewis, NH DES Wetlands Compliance Specialist to rectify the work that has taken place within the prime wetland buffer. Mr. Albert also related that JBE will install the Conservation Easement placards as identified in the Conservation Restriction Deed, they recognize that the landscaping planting identified on sheet 6 of the Site Plan still need to be installed, and they will work with the Town to resolve the issues.

Mrs. Bolduc reported that at the December 5, 2011 Conservation Commission meeting Chairman O'Brien reported that during a recent conversation with Mr. Lewis he said he was meeting with the Wetlands Board to determine exactly what the remediation should be, as he himself had never seen such extensive damage to a prime wetland buffer.

Mr. Barham said the Board is still waiting for feedback from NH DES to decide further action. According to a November 21, 2011 e-mail message from Eben Lewis, NH DES Wetlands Compliance Specialist, DES conducted an inspection with NH Department of Resources and Economic Development (DRED) and the logger on October 18 and 25, 2011. DES documented cutting within the prime wetland buffer during these inspections and will issue their decision shortly.

SHORELAND PROTECTION ACT

Mr. Karcz said he attended a forum on the Shoreland Protection Act changes.

SEACOAST FARMS

(Shirkin Road, Map 5 Lot 035)

There was a continued discussion relative to the Seacoast Farms site plan and whether there were agreements between Mr. Kelly and the Selectmen and/or the Court that would allow deviation in any way from the approved site plan.

Town Counsel has said it is acceptable for Mr. Kelly (Seacoast Farms) to contact the Town Planning Department directly to see what the issue really is and if a resolution to any situation can be reached.

Mr. Barham reported that he has contacted Town Counsel John Ryan via e-mail requesting the details of the agreed reorganization of the Seacoast Farms site and maintenance protocols, and Mr. Ryan's opinion of what actions the Board is permitted to take in respect of Seacoast Farms following termination of legal action by the Town against Seacoast Farms. Questions he asked of Mr. Ryan included:

1. As part of the legal remedy is Mr. Kelly obliged to continue to operate his site in accordance with the layout defined in the March 3, 2011 plan?
2. As part of the legal remedy is Mr. Kelly obliged to continue to operate his site in accordance with the proposed maintenance protocols detailed in his December 15, 2010 memorandum?
3. If the site layout detailed in the March 3, 2011 plan is different to the 1999 Approved Site Plan, is the Board entitled to require Mr. Kelly to apply for a Site Plan Amendment, and if so, is the Board entitled to impose additional conditions such as the December 15, 2010 protocols, and proposed remedies if odor complaints escalate?

Mr. Barham said we will wait to hear back from Counsel and discuss this further at the next meeting.

The Board received a copies of November 21 & 23, 2011 complaints relative to a dump truck operating out of the Seacoast Farms site prior to the permitted operating hours.

ZONING ORDINANCE AMENDMENTS

PUBLIC HEARING

Mr. Barham opened the Public Hearing at 7:35 pm. He noted that the following notice of the Public Hearing was posted on November 3, 2011 at the Fremont Town Hall, Library, Safety complex, and Post office, and on the Fremont Town web site and in the November 10, 2011

edition of the Union Leader Newspaper.

In accordance with NH RSA 675:6 and 675:7 you are hereby notified that the Fremont Planning Board will hold a Public Hearing on Wednesday December 7, 2011 at 7:30 pm in the basement meeting room of the Fremont Town Hall to review proposed changes and amendments to Articles IV-A, IX-E:4 (d) and XIX,1.3-C the Fremont Zoning Ordinance. A second Public Hearing, if it is necessary, will be held on Wednesday December 21, 2011 at 7:30 p.m. in the basement meeting room of the Fremont Town Hall.

These proposed zoning amendments include:

- *Amendments to ARTICLE IV-A of the Fremont Zoning Ordinance (In-Law Accessory Apartments).*
 1. Delete the second portion of the sentence in section G. “Any new entrances shall be located on the side or rear of the building ~~and shall be at ground level~~”.
 2. Delete section H in its entirety. ~~“All in-law/accessory apartments shall have accessible entrances and shall conform to dwelling unit Type B construction, as specified in the International Residential Code (IRC).~~
- *Amendment to Article XI –E; 4 (d) of the Fremont Zoning Ordinance (Aquifer Protection District) by adding “except for propane and natural gas”.*
- *Amendment to Article XIX, 1.3-C of the Fremont Zoning Ordinance (Signs) - “For Sale Signs” by adding “and do not exceed six (6) square feet in size”.*

This full text of all proposed zoning amendments is posted at the Fremont Town Hall, Library, Safety complex, and Post office, and on the Fremont Town web site. They are also on file in the offices of the Selectmen, Planning/Zoning and Town Clerk and can be viewed during regular business hours. The public is invited to attend.

ARTICLE IV-A of the Fremont Zoning Ordinance (In-Law Accessory Apartments).

Section G:

Delete the second portion of the sentence in section G. “Any new entrances shall be located on the side or rear of the building ~~and shall be at ground level~~”.

Rational: A lot of older, existing homes have existing entrances with a few steps and this condition would make them not eligible to add an in-law unit.

Section H:

Delete section H in its entirety. ~~“All in-law/accessory apartments shall have accessible entrances and shall conform to dwelling Type B construction, as specified in the International Residential Code (IRC).~~

The description of “dwelling unit type B” as noted at the end of the Ordinance is “A dwelling unit designed and constructed for accessibility in accordance with ICC/ANSI A117.1, intended to be consistent with the technical requirements of fair housing required by federal law. “

Discussion:

Prior to the Public Hearing Fire Chief Richard Butler submitted a December 7, 2011 letter citing safety concerns relative to elderly and possible handicap residents and stating that his opinion that sections G and H of Article IV-A of the Fremont Zoning Ordinance should remain as written. His concerns were; 1) walker/wheelchair maneuvering through doorways and stairways and becoming fall hazards; 2) difficulty of removing a sick/injured person from second story units.

Mr. Meade explained some of the provisions of the ANSI code that is part of type B construction as per section H of Article IV-A. This provision makes it more difficult and complicated to meet the requirements in order to be allowed to construct an in-law apartment. Mr. Meade reiterated that this code is in place for accessibility and if a unit must comply with ICC/ANSI A117.1 there can be no stairs not only on the outside of the egress, but immediately on the inside. There must be 2 doors for egress and there has to be a straight shot between them with no obstruction (including a stairway). There are other conditions such as 3' wide doors, wheelchair turn around bathroom, future blocking in the walls for grab bars (handicap items), replacement of kitchen sink cabinet, etc. The IRC would still need to be complied with. He said he has no problem with the code, but if it is to remain in the ordinance he would suggest adding some descriptions of what is expected.

Mr. Groth said the purpose of the In-Law ordinance is to limit the property from becoming rental or duplex situation while providing a way for housing for a relative of the owner. He added that the way the ordinance is written, if it includes compliance with Section H, it is for older relatives. Mr. Barham said if the intent of the regulation was to care for an elderly relation he has no problem with the ordinance as it is.

Access was discussed and it was agreed that an in-law situation is not always an older relative such as a parent or grandparent, but can be a younger relative such as a daughter, son or sibling of the owner. The provisions of G and H of Article IV-A inhibits, and in many cases eliminates the option of existing homes to add an in-law because they could not meet the provision.

There was a discussion relative to whether the intent of the regulation being for an older or elderly relative. Mrs. Bolduc noted that housing intent for two of the four ZBA Special Exception cases granted for Article IV-A were for adult children of the owner. Other provisions of Article IV-A include that only one acre of land is required where it would be a minimum of 2.55 acres for a duplex situation, the in-law unit is only to be occupied by a family member, the primary residence and the in-law/accessory apartment must share common water, septic, and electric facilities and have an interconnected smoke alarm system, the in-law unit must be with the primary residential structure and not within any accessory use structure (such as a garage).

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Mr. Barham asked for consensus of opinion relative to the proposed amendments and it was unanimously agreed that the Board is happy with the amendment as it is presented.

After careful consideration by the Board, Mr. Downing made the motion to approve and recommend the proposed amendment to Article IV-A, G & H of the Fremont Zoning Ordinance as presented above with no further changes.

The motion was seconded by Mr. Kohlhofer with unanimous favorable vote.

Article XI –E; 4 (d) of the Fremont Zoning Ordinance (Aquifer Protection District):

Add “*except for propane and natural gas*”.

Rational: This would put the Town in line with NH DES model ordinance in excluding propane and “*other liquefied fuels which exist as gases at normal atmospheric temperature and pressure*”.

After careful consideration by the Board, Mr. Karcz made the motion to approve and recommend the proposed amendment to Article XI –E; 4 (d) of the Fremont Zoning Ordinance as presented above with no further changes.

The motion was seconded by Mr. Downing with unanimous favorable vote.

Article XIX, 1.3-C of the Fremont Zoning Ordinance (Signs):

“For Sale Signs”: add “*and do not exceed six (6) square feet in size*”.

Rational: This amendment would eliminate oversized “for sale” signs.

After careful consideration by the Board, Mr. Karcz made the motion to approve and recommend the proposed amendment to Article XIX, 1.3-C of the Fremont Zoning Ordinance as presented above with no further changes.

The motion was seconded by Mr. Downing with unanimous favorable vote.

This decision including the entire verbiage of all proposed zoning amendments will be posted at the Fremont Post Office and Town Hall for a period of thirty (30) days.

Because the Planning Board voted at this meeting to approve all proposed zoning amendments there will be no need for the second Public Hearing that was scheduled for December 21, 2011.

Mr. Karcz made the motion to close this public hearing at 8:10 pm.

Motion seconded by Mr. Downing with unanimous favorable vote.

JACOB’S COVE

Map 1 Lot 098-1

Present: Jake Donigian

At 8:10 pm Jake Donigian met with the Board to discuss the October 6, 2010 subdivision approval for Jacob’s Cove. The mylar and plans have not been signed and recorded because the road has not been built or bonded. Condition #8 says *The subdivision construction shall follow the schedule that was submitted by the applicant on October 6, 2010. At that point, or by*

November 1, 2011, the project must be completed or bonded.

Mr. Donigian said that due to a poor economic year with the low housing market, and the fact that he has had some physical issues, he is before the Board to ask for a one year extension to condition #8 of the October 6, 2010 approval.

There was some discussion. Mr. Karcz had concerns relative to the project dragging on without being finished. Mr. Donigian said if he finds he is going to build he will bond the whole road. Mr. Downing said that he is satisfied with that.

With little further discussion Mr. Downing made the motion that the Board grant the one-year extension to condition #8 of the October 6, 2010 subdivision approval for Jacob's Cove from November 1, 2011 to November 1, 2012.

Motion seconded by Mr. Karcz with unanimous favorable vote.

Mr. Groth said the Subdivision Regulations section 6.2.c reads in part *“Unless otherwise specified within the approval, the applicant shall have three (3) months to comply with the conditions of the approval and have the plan signed by the Board at a publicly noticed compliance hearing. If the conditions are not met within three (3) months, the conditional approval shall lapse, unless a mutually agreeable extension has been granted by the Board. Extensions shall be granted only if there have been no amendments to the Zoning Ordinance, Subdivision Regulations, Non-residential Site Plan Review Regulations, or any other ordinances and regulations which would render the subdivision plan non-conforming, and if all other required permits are still valid.”*

P/Z BUDGET vs ACTUAL STATEMENT

The Board received and reviewed the Planning/Zoning expenditure statement for January through November 30, 2011.

RPC CIRCUIT RIDER CONTRACT

The Board received a copy of the December 1, 2011 correspondence from Town Administrator Heidi Carlson to RPC acknowledging the payment of the second and final installment on the 2011-2012 Circuit Rider Contractor for July 1, 2011 – June 30, 2012.

ECONOMIC DEVELOPMENT COMMITTEE

Mr. Kohlhofer said being on the Budget Committee and the School Committee he knows the pressures of the Town. He suggested the Planning Board look into forming a Fremont Economic Development Committee to bring awareness to the Town's Corporate Commercial District and help develop the Town's resources. The purpose of such a committee would be to talk with commercial property developers to promote development interest for the Town.

Mr. Downing said one of the sessions he attended at the recent LGC Conference was on economic development and the speaker said she would be willing to come and talk to the town about development. Mr. Downing said he had the speaker's card at home and he will get the contact information to Mrs. Bolduc. Mr. Barham said he thinks it is a good idea to have a development committee that is separate from the Planning Board. The Members agreed with Mr.

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Kohlhofer’s suggestion and Mrs. Bolduc will line up a business resource specialist to meet with the Board relative to economic development for the Town and forming an Economic Development Committee.

INCOMING CORRESPONDENCES

There was no incoming correspondence.

Mr. Karcz made the motion to adjourn at 8:45 pm.
Motion seconded by Mr. Downing with unanimous favorable vote.

Respectfully submitted,

Meredith Bolduc, Land Use AA/Recording Secretary

Next regular meeting: December 21, 2011.

ACTION ITEMS

From the December 7, 2011 meeting.

Bolduc: contact a business resource specialist.

From the October 5, 2011 meeting.

Groth: create a draft adult use ordinance for the Members to review and consider.

PROJECTS PENDING/COMPLETED WITH RPC

- Master Plan Audit - Funded with CTAP Phase II funds = **\$3,500**; completion date of August 1, 2010. Completed February 16, 2011.
- CIP Annual Process - Funded with the 2010 Targeted Block Grant (TGB); completion date of June 30, 2010. Paid Towns share of **\$1,000** in December 2009. Pending as of December 7, 2011.
- Provide one (1) final paper copy and one (1) electronic version of the updated MP. Provide one (1) final copy of all elements of the CIP annual update process- Funded with the 2010 Targeted Block Grant (TGB); completion date of June 30, 2010. Paid Towns share of **\$1,000** in December 2009. Pending as of December 7, 2011.

Updated project timeline table below.

RPC

Projects Non-CTAP	Status	2009 30 June	2010 30 June	2010 22 Sept	2010 27 Oct
CIP Process Submittal Materials (2010 TBG)	Pending		Contracted Completion Date		
1 final copy of updated MP, CIP elements (2010 TBG)	Pending		Contracted Completion Date		