



Fremont Board of Adjustment
September 22, 2015
Meeting Agenda

7:00 pm Case #015-004
Map 02-098
Deborah Hamilton and Estate of Brian Hamilton
Variance Article IV Section 2

Acceptance of Minutes of July 28, 2015

Review Incoming Correspondence

Consider calendar of submission dates for future meetings

Any other business which may legally come before the Board

Meeting Minutes

Members present: Chairman Doug Andrew, Members John (Jack) Downing, Dennis Howland, Alt Neal Janvrin, and Town Administrator Heidi Carlson.

Mr. Andrew opened the meeting at 7:00 pm.

The meeting was live broadcast on FCTV 22 and will be rebroadcast throughout the week.

MINUTES

Mr. _____ made the motion to accept the minutes of the July 28, 2015 meeting as written.
Motion seconded by _____ with unanimous favorable vote.

Case #015-004
Map 02-098
Deborah Hamilton and Estate of Brian Hamilton
Variance

Present: Deborah Hamilton

Mr. Andrew opened this Public Hearing at 7:00 pm and read the Public Notice of the Hearing as follows:

In accordance with NH RSA 676:7, you are hereby notified that the Fremont Zoning Board of Adjustments will hold a Public Hearing at 7:00 pm on Tuesday September 22, 2015 in the basement meeting room at the Fremont Town Hall, 295 Main Street, concerning a variance to the terms of Article IV Section 2 of the Fremont Zoning Ordinance to permit a 3 lot subdivision of property located at Map 2 Lot 98, on Main Street and Kelsey Drive in Fremont NH, in which one of the proposed new lots (02-098.001) has two lot lines that are less than 100' feet required.

This matter is also pending Planning Board Subdivision application item until such time as it is either approved or disapproved.

You are invited to attend in person or by counsel or agent. Written comment will be accepted up until the date of the hearing. A copy of the plan can be viewed at the Fremont Town Hall during regular business hours.

Certified notices were sent to all abutters, and all cards have been returned with letters picked up. This hearing was posted on the Town's website and at Town Buildings on August 28, 2015 and published in the Union Leader on September 4, 2015.

The applicant is seeking a Variance to the terms Article ____ Section ___ of the Fremont Zoning Ordinance to allow one proposed new lot with two lot lines less than the 100 feet requirement. This pertains to lot two of a three lot subdivision. The Planning Board began their Public Hearing process on the Subdivision last week.

The Board reviewed the applicants written and oral statements (in *italics*) as submitted in their application.

Facts supporting this request:

1. The variance will not be contrary to the public interest because *it does not affect the function of the Subdivision.*
2. The spirit of the Ordinance is observed because *the original purpose of this Ordinance was to keep now (new) lot lines between lots 100' or more. We are only making perimeter lot lines under 100'.*
3. Substantial justice is done because *these good shaped lots would have to be shaped in an unnormal configuration.*
4. The values of surrounding properties are not diminished because *these lots are shaped in a normal way.*
5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
 - A. For the purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - (i) No fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property: *the original purpose of the Ordinance is not being treated properly;* AND
 - (ii) The proposed use is a reasonable one. *It would make normal shaped lots.*
OR
 - B. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditons of the property that

distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it. *N/A*

Comment sheets have been received from (comments in *italics*):

Building/Code Enforcement Official: *I have no issue with this.*

Health Officer: *I have no issue with this.*

Fire Chief: *I have no problem with this application.*

Police Chief: *No issue*

Road Agent: *No comments.*

Conservation Commission: *After reviewing the plan comment sheet, the Conservation Commission noted that wetlands and setbacks are shown as compliant with current zoning. Therefore, the Commission has no comment.*

Board of Selectmen/Town Administrator: *Several plan typos and updates were presented to the Surveyor which needed correction on the plans (Map and Lot numbers and abutter name/address updates and corrections). These include:*

Abutter for parcel 07-016 should be Pauline Vaillancourt & Vincent Giannusa (joint owners). Notice was corrected, but plan should show updated information.

Abutter 02-105.003 is Kevin and Catherine Herrmann. It is spelled Herrimann on the plans and abutters list. Notice was sent correctly, but plan should be corrected.

Abutter 02-022.002 should actually be listed as 07-002.002. Correct owner information is Ian & Jasmine Miller, 53 Tibbetts Road, Fremont NH 03044. Notice was sent correctly but plan should be updated with correct information to include name, address, and correct M/L designation of 07-022.002,

Abutter 07-017 is shown on the plan as 68 Tibbetts Road and their address is 78 Tibbetts Road.

With little more discussion Mr. Andrew called for a vote by the Board Members on each of the points of criteria for a Variance.

The variance will not be contrary to the public interest.

Board's vote:

Mr. Andrew

Mr. Downing

4

Mr. Howland
Mr. Janvrin

The spirit of the Ordinance is observed

Board's vote:
Mr. Andrew
Mr. Downing
Mr. Howland
Mr. Janvrin

Substantial justice is done

Board's vote:
Mr. Andrew
Mr. Downing
Mr. Howland
Mr. Janvrin

The values of surrounding properties are not diminished because

Board's vote:
Mr. Andrew
Mr. Downing
Mr. Howland
Mr. Janvrin

Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

C. For the purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (iii) No fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property: *the original purpose of the Ordinance is not being treated properly*; AND

The proposed use is a reasonable one. *It would make normal shaped lots.*

Board's vote:
Mr. Andrew
Mr. Downing
Mr. Howland
Mr. Janvrin

After careful consideration and review by the Board, Mr. _____ made the motion that, based on the information presented and the results of the Boards vote on the four points of criteria that must be met for approval of a _____, and pursuant to the location plan by Blaisdell Survey and dated August 2015 the Fremont Zoning Board of Adjustment grant the requested Equitable Waiver of Dimensional Requirement to allow a three lot subdivision where one of the resultant lots has two lot lines that are less than the 100 feet required pursuant to Article IV Section 2 in the Town of Fremont Zoning Ordinance.

Motion seconded by Mr. _____ With unanimous favorable vote.

Mr. _____ declared the requested Variance approved.

The applicant was instructed that there is a 30 day appeal period and that the notice of decision of this action will be recorded at the Rockingham Registry of Deeds and will referenced to the property deed.

At 7: _____ pm Mr. _____ made the motion to close this Public Hearing.
Motion seconded by Mr. _____ with unanimous favorable vote.

_____, submitted required recording fees. They and _____ left at this time.

CORRESPONDENCE

There was no incoming correspondence received.

DISCUSS POSTING SUBMISSION CALENDAR

At _____ pm Mr. _____ made the motion to adjourn.
Motion seconded by Mr. _____ with unanimous favorable vote.

Next meeting: scheduled for October _____ 2015.

Respectfully submitted,

Heidi Carlson