



Fremont Board of Adjustment
August 30, 2011
Meeting Minutes
Approved September 27, 2011

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

Mr. Andrew opened the meeting at 7:35 pm.

At the August 25, 2009 meeting Mr. Andrew designated Alternate Meredith Bolduc to fill the vacancy on the Fremont Board of Adjustment until such time as the Selectmen have appointed someone to serve as a full Board Member to fill that vacancy. That appointment remains in effect.

MINUTES

Mr. Downing made the motion to accept the minutes of the July 26, 2011 meeting as written. Motion seconded by Mr. Andrew with unanimous favorable vote.

Case # 011-002
PETER GILLIGAN
Map 3 Lot 177-003

Present: Owner Peter Gilligan and his mother Ann Marie Scribner.

Mr. Andrew opened this Public Hearing at 7:40 p.m. and read the notice of the Public Hearing as follows:

In accordance with NH RSA 676:7, you are hereby notified that the Fremont Zoning Board of Adjustment will hold a Public Hearing at 7:30 pm on August 30, 2011 in the Land Use Meeting Room, basement level in the Fremont Town Hall, as requested by Peter Gilligan for Map 3 Lot 177-003, 30 Whittier Drive, Fremont, New Hampshire.

The applicant is seeking a Special Exception as required by Fremont Zoning Article IV-A to allow the property use to include an In-Law Apartment.

You are invited to appear in person or by counsel and state reasons why the appeal should or should not be granted. Written comments 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.

Mr. Boisvert joined the meeting at 7:45 pm.

Mr. Andrew related to Mr. Gilligan that there is not a full Board present and gave him the option of waiting for the benefit of a full Board for a decision. It was further explained that it takes concurring votes of three voting Members of the Board to decide in favor of an applicant or reverse any action of the administrative official. Mr. Gilligan opted to move forward with the four members present.

Mr. Andrew explained that the purpose of the Board is to hear and determine appropriate action relative to Special Exceptions, Variances and Appeals as they pertain to the Fremont Zoning Ordinance. He then read Article IV-A of the Fremont Zoning Ordinance.

Mrs. Bolduc 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.

Mrs. Bolduc explained that the mechanism the Town has to allow the creation of an in-law apartment is by way of a Special Exception from Article IV Section A of the Zoning Ordinance. An applicant must go to the Board of Adjustment for approval since Article IV Section A is a zoning article.

It was noted that this hearing was noticed on August 16, 2011 at the Fremont Post Office and Fremont Town Hall and in the August 19, 2011 edition of the Manchester Union Leader Newspaper. The applicant and all abutters were notified via certified mail on August 18, 2011 and all returns have been received except for that of abutter Tidd. The application package included: 6 copies of drawn plan, proper check amount, a current list of abutters, letter of intent, and an August 15, 2011 letter of denial from the Code Enforcement Official.

Comment sheets were received from the following, with comments in italics:

Health Officer: *No comment.*

Building Official/Code Enforcement Officer: *No comment.*

Road Agent: *Needs to make sure there is enough parking with a turn around so all cars can turn around before coming onto Whittier Drive.*

Mr. Gilligan explained that he wants to create an in-law apartment in his home for his grandparents use. He said that his Grandfather has been diagnosed with Alzheimer's and it has come to the point where family help and support has become necessary. Mr. Gilligan said he feels he can meet all the requirements of Article IV-A of the Fremont Zoning Ordinance.

The Board reviewed the application submitted by Mr. Gilligan. One part of the submission was a drawing of the entire 2.01 acre parcel and included locations of the existing house and attached garage, septic, well, driveway and the locations of all abutters. The second part of the submission

was a sketch of the layout and dimensions of the floor plans of the proposed addition.

In answer to questions by the Board Mr. Gilligan stated:

- He has owned the house since 2007.
- That the footprint of the house and garage would not change and that the added space would be a second floor over the existing attached garage.
- There are 2 existing turn-arounds in the driveway so there is no need for anyone to back out onto Whittier Drive.
- There is already an interconnected smoke alarm system and he will extend it to the added space.

Mr. Andrew stated that according to the owners signature on the application for this Special Exception dated August 16, 2011 and by verbal agreement at this Public Hearing the applicant has certified the following; (Mr. Gilligan's comments are in italics).

- A. The property conforms to the dimensional requirements of the single family minimum lot size standard as established by Fremont Zoning Ordinance in 1971 (Lot size of one (1) acre minimum is required), and the single family dwelling has been constructed and occupied for a period of a minimum of one year. *Yes; 2.01 acres*
- B. The dwelling to which the in-law/accessory apartment is being created is owner occupied and of greater than twelve hundred (1200) square feet of total existing living space. *Yes*
- C. The living area of the in-law/accessory apartment has a minimum of four hundred (400) square feet and a maximum of eight hundred (800) square feet. Size shall be determined by the total square footage of the in-law/accessory apartment. The initial family unit is not lessened by such dimensions so as to create non-compliance with Article V Section 2. *Yes*
- D. There will be no more than two (2) bedrooms in the in-law/accessory apartment. *There is one bedroom.*
- E. Septic facilities are adequate to service the in-law/accessory apartment. Such evidence shall be in the form of certification by State of N.H. licensed septic system designer. The Building Official has indicated his approval in writing to the Zoning. Mr. Gilligan said he brought with him tonight a letter for the Building Official from a NH Licensed septic designer stating that the septic system is adequate to handle the in-law unit. Mrs. Bolduc said that the Board needs to receive a written approval from the Building Official to satisfy this item.
- F. The in-law/accessory apartment shall be designed such that the appearance of the building remains that of the single family dwelling. Any new entrances shall be located on the side or rear of the building and shall be at ground level. *Yes.*

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Mr. Gilligan explained that, as per the architectural drawing of the proposed addition and unit, there are already two entrances in the front of the house and he is proposing another entrance on the side of the garage with a set of inside steps.

- G. The in-law/accessory apartment shall have accessible entrances and shall conform to dwelling unit Type-B construction, as specified in the International Residential Code (IRC). *Yes*
- H. The primary residence and the in-law/accessory apartment shall share common water, septic, and electric facilities. *Yes*
- I. In no case shall more than one in-law/accessory apartment be permitted within the structure. Dormitory-type facilities and living are expressly prohibited whether seasonal or otherwise. *Yes*
- J. The In-law/accessory apartment shall not be constructed or established within any accessory use structure (such as a garage). *Yes*
- K. Off-street parking is available for a minimum of four automobiles for the entire structure. The in-law/accessory apartment to be permitted does not have a separate driveway or separate garage to accommodate its occupant(s). *Yes. The driveway can accommodate the four vehicles required.*
- L. The in-law/accessory apartment shall be provided with an interconnected smoke alarm system. All smoke alarms shall be listed and installed in accordance with the provisions of the IRC and the household fire warning provisions of NFPA 72. *Yes*
- M. The provisions of the International Residential Code (IRC) shall apply to all construction elements of the in-law/accessory apartment. There shall be no occupancy of the in-law/accessory apartment until the Building Official has issued an occupancy permit. *Yes*
- N. The in-law/accessory apartment is not within the Flood Plain as identified by the FIRM map relating to Fremont, N.H. *Yes. According to the map the property is not in the Flood Plain.*

Variations to this special exception may not be granted.

There was further discussion relative to the application and associated drawing. It was agreed that item "E" seems to be the only outstanding issue.

A site visit was discussed. At 8:30 pm Mr. Downing made the motion to continue this Public Hearing to 6:00 pm on Tuesday September 20, 2011 at 30 Whittier Drive for the purpose of a site visit, and to 7:30 pm on Tuesday September 27, 2011 at the Fremont Town Hall.

Motion seconded by Mr. Downing with unanimous favorable vote.

After the continuation of the Public Hearing there was a general conversation relative to the Gilligan

house layout and the Whittier Drive area.

BUDGET – 2012

The Board reviewed and discussed the P/Z budget for 2012 that has been presented to the Selectmen.

001 Clerical To be determined by the Selectmen \$20,996

Consists of one part time office position servicing all Land Use Boards i.e.; Conservation Commission, Planning and Zoning Boards; 26 hours per week includes 15 posted office hours/week plus 9 hrs inclusive of all meetings; Planning Board (3 per month), Conservation Commission (2 per month), Zoning (1-2 per month), Cemetery Trustees bi-monthly and additional open office time. Includes each Board's clerical duties and support, maintaining the office for public assistance; support and assistance for the public relative to the various applications, recording all decisions and mylar plans, aiding the public with the FEMA Flood Insurance Program. Also includes Notary Public services.

Position is under the general direction of the Planning Board Chairman, Zoning Board of Adjustment Chairman, Conservation Commission Chairman, and Cemetery Trustees in terms of effectiveness of results. Consultation occurs with supervisors of each department on matters of unusual nature or when policy or procedures are changed for that department.

Shares space with Building Inspector/Code Enforcement Office resulting in convenience for the public securing permit applications (building, electrical, plumbing, etc.) during times when that office would otherwise be closed. Consultant to the Building Inspector/Code Enforcement Officer regularly regarding Zoning Ordinances and Planning Regulations.

002 Office Supplies \$ 750

Envelopes, labels, pads, pens, tape, computer & copy paper, computer ink cartridges, markers, CD and ZIP discs, thumb drives, annual RSA Land Use Handbooks \$120; copier cartridge \$100/ea; also includes printer paper, file hanging folders, manila folders, page protectors, binders, labels and label printer cartridges, and incidental office supplies and equipment as needed.

This line remains the *same* as 2011.

003 Postage \$ 1,700

Figure based on actual usage (average 10-12 abutters per, notices are up to \$5.54 each actual postage cost), reimbursed by applicants. Includes all public hearing notices mailed to applicants and abutters. Also includes the purchase of stamps as needed for correspondences.

This line remains the *same* as 2011 and accurately reflects anticipated spending based on the current years actual spending.

004 Professional Services \$ 3,200

This line is used to fund outside services and technical assistance for ordinance, regulation, CIP preparation and Master Plan updates most of which need to be done on an annual basis. (New Master Plan chapters and updates as well as a current CIP are required by statute).

This line remains the *same* as 2011.

005 Advertising \$ 1,500

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 remains the *same* as 2011.

006 Office Equipment \$ 200

This line funds repairs of office printers and/or other office equipment.

This line remains the *same* as 2011.

007 Recording Fees \$ 350

Miscellaneous recording charges for plan and copies from the Registry of Deeds.

This line remains the *same* as 2011 in anticipation of actual spending.

010 Mileage \$ 175

The Town records newly approved plans and approvals. This line includes mileage round trip to Brentwood for recording plans which is fully reimbursed by applicants.

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This also includes round trip mileage for other Land Use Office related trips including attendance to workshops and seminars by members. This is mostly spent near the end of the year for reimbursement due to timing of incidental spending and workshop attendance. The mileage rate is currently at .44/mi.

This line remains the *same* as 2011.

020 Matching Grants

\$ 3,000

Review/revision of all Town Ordinances and Regulations for changes and updates necessary, this covers the Town's matching portion of grants received from the Planning Commission, State or Federal government. RPC 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 whole amount may or may not be used depending on the amount of the TBG for that year. 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.

This line remains the *same* as 2011.

035 Training Workshops

\$ 500

This line covers the cost of Planning/Zoning training at various cost and participation per session. Some of the training is mandatory and some is elective. All training is essential to keep up on changes and updates to RSA's and regulation mandates.

This line remains the *same* as 2011.

109 Printing

\$ 500

Printing of ordinances and regulations as needed. Costs reimbursed by sale of copies of ordinances. This year, because of so many updates, several copies of chapters of the Master Plan Chapters will need to be printed.

This line remains the *same* as 2011.

500 Circuit Rider Planner

\$9,900

This is the annual contract for the Circuit Rider Planner from Rockingham Planning Commission. The Planner currently attends two Planning Board meetings per month; assists the Town as needed with phone and onsite support. The hourly \$55 hourly rate and the 158 core service hours remain the same as 2010 and 2011.

The rationale for this expenditure is service is rendered for 3.5 hours x 24 night meetings = 84 hrs; 4 hours per month for general assistance = 48 hrs; and 0.5 hour per week for extra in-office assistance and contact (such as phone & e-mail). This makes for a core service of 158 hours x \$55 per hour charged = \$8,690. Hours and the Planner's time are adjusted by the agreement with the Planning Board if the Town's needs vary during the contract year. Contract is paid in two installments during the year.

This reflects in an actual bottom line of \$8,690 to RPC, but the Board wishes to budget \$9,900 in anticipation of an increase for the 2012-2013 budget to cover a higher rate because RPC's contract year budget timeframe does not match Fremont's.

This line remains the *same* as 2011.

The Board had no further recommendations or changes.

NH HOUSE AND SENATE BILLS

Mrs. Bolduc reported on the following NH Bills.

New NH Bills now in effect:

SB 20. This bill, relative to shoreland protection exempts terrain alteration activities from requiring certain DES shoreland protection permits.

Took effect August 6, 2011.

SB 21. This bill, relative to the definition of "wetlands," excludes from the statutory definition of jurisdictional wetlands certain "man-made" wetlands such as man-made ponds less than 10 acres in size and all road-side ditches.

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Took effect August 13, 2011.

HB 409. This bill mandates that any 2 appointed or elected members of the planning board may also serve together on any other municipal board or commission, except that no more than one member of the planning board shall serve on the conservation commission, the local governing body, or a local land use board as defined in RSA 672:7.

Took effect August 13, 2011.

Pending House and Senate bills:

HB 85. This bill would change the definition of “abutter” under RSA 673:2 to mean, in the case of a condominium, each unit owner, rather than the officers of the owners’ association. The result of this change would be that land use boards, in giving notice of hearings, would be required to notify every owner of an abutting condominium, rather than just the officers.

SB 19. This bill amends the definition of “prime wetlands” that may be designated by a municipality by requiring that any such wetland comprise five acres or more and by adding “very poorly drained soils” to the attributes that may qualify the land for such designation.

CORRESPONDENCE

- Notice from LGC of the Fall Law Lecture Series.

At 9:00 pm Mr. Downing made the motion to adjourn.

Motion seconded by Mr. Boisvert with unanimous favorable vote.

Next meeting: scheduled for September 27, 2011.

Respectfully submitted,

Meredith Bolduc, recording secretary
