



Fremont Board of Adjustment
September 22, 2015
Meeting Minutes

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

Chairman Andrew opened the meeting at 7:00 pm.

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

MINUTES

Howland made the motion to accept the minutes of the July 28, 2015 meeting as written. Motion seconded by Downing with unanimous favorable vote 4-0.

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

Present: Deborah Hamilton, Landowner; Surveyor Roscoe Blaisdell, Abutters Deborah and Tom Placido, Trisha and Timothy Allen, John Lindemann, Joshua Russell; and Members of the Public William Bartlett, Kim Weeks and Paul Riley.

Chairman Andrew opened the Public Hearing at 7:03 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.

It is noted for the record that 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 IV Section 2 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.

Roscoe Blaisdell came to the table and introduced himself to the Board indicating that he is the Licensed Land Surveyor representing the property owner, and does septic design and wetlands work. He said they are proposing a three lot subdivision which gives the three lots their required frontage. He indicated that he knew the history of the rule requiring lot lines of at least 100 feet and said that 33 years ago he did a subdivision in Fremont and to meet the requirements, had to put a pin almost in front of the house and then take a sharp curve about 40 feet and then straighten it, resulting in zig zag lot lines that may later be difficult to locate in the field. He explained that Fremont shortly thereafter adopted this ordinance so that zig zag lines would be avoided.

Blaisdell stated that he felt in this case that there was no harm in this presentation of the lines. He termed it as a "usual" looking subdivision, but as drawn, does not meet the letter of the Ordinance. There is one short line (46.40 feet) along Route 107 and one short line (84.51 feet) at the rear of lot 2. Copies of the plans were posting in the meeting room for viewing.

Chairman Andrew read Article IV Section 2 of the Fremont Zoning Ordinance:

Section 2. *Every building lot shall have a minimum contiguous lot frontage on Federal, State and Town highways of two hundred (200) feet provided that where lots are located on exterior side of a curving street the minimum road frontage shall be no less than one hundred (100) contiguous feet, provided that the average width of the lot measured across its center shall be two hundred (200) feet. Building lots on which multiple family dwellings are located shall have an additional frontage of twenty (20) feet per family unit when less than five (5) family units and forty (40) feet per family unit when five (5) or more family units are considered. ie: (two hundred (200) plus twenty (20) multiplied by the number of family units) or (two hundred (200) plus forty (40) multiplied by the number of family units). No lot line shall be less than one hundred (100) feet and each lot shall have no less than four (4) lot lines.*

Blaisdell stated that he felt the Ordinance should be amended to say interior lot lines, and felt it did not fully make sense.

Chairman Andrew asked the audience if there were any questions.

Tom Placido asked about the location of the house in relation to his home at 82 Tibbets Road. The map was consulted and he could see the distance away, which Blaisdell estimated at greater than 500 feet for placement of potential new houses on lot 2 or lot 3.

John Lindemann asked about the lot 3 and where the house would be built. The map was circulated and the tax maps consulted for a relative idea of where the subdivision is as compared to abutters and neighboring properties.

Tim Allen asked about the trees and drainage if trees were cut, given the rise in the rear of the proposed lots 2 and 3, as compared to Tibbets Road.

Blaisdell said that a new owner can do anything with their own property, but that given the wetland in the rear of the lots, and the cost of development for a lengthy driveway, that it was highly likely houses would be constructed up nearer the street, Kelsey Drive. The house on lot 1 is already existing, right near Main Street (Route 107).

Andrew read through the Department Plan Comment sheets, received from the following Town Officials (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 Tibbets 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.

Blaisdell said he has made the corrections as noted above, to the Plan for final presentation to the Planning Board.

Kim Weeks asked about the existing house and septic system and their compliance with Zoning. Blaisdell explained that the house on lot 1 is old and therefore can remain as is without further zoning action. She questioned the shed on the lot and Blaisdell explained that it does not meet the setback and will be removed from the lot, or moved within the lot, to be compliant with the building envelope.

There were no further questions from the public and the Board began review of the Applicant's submissions. Chairman Andrew read aloud, the Applicant's 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. Blaisdell added that the lot would have a lot of zig zags if reconfigured in the rear of proposed lot 2.*
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 conditions 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*

With little more discussion Chairman Andrew asked if members were ready for a vote by the Board Members on each of the points of criteria for a Variance. Members stated that they felt they had enough information to make a decision at this point.

Chairman Andrew read through each of the criteria for a Variance:

The variance will not be contrary to the public interest.

Board's vote:

Mr. Andrew	Yes
Mr. Downing	Yes
Mr. Howland	Yes
Mr. Janvrin	Yes

The spirit of the Ordinance is observed.

Board's vote:

Mr. Andrew	Yes
Mr. Downing	Yes
Mr. Howland	Yes
Mr. Janvrin	Yes

Substantial justice is done.

Board's vote:

Mr. Andrew	Yes
Mr. Downing	Yes
Mr. Howland	Yes
Mr. Janvrin	Yes

The values of surrounding properties are not diminished.

Board's vote:

Mr. Andrew	Yes
Mr. Downing	Yes
Mr. Howland	Yes
Mr. Janvrin	Yes

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:

Board’s vote:

Mr. Andrew	Yes
Mr. Downing	Yes
Mr. Howland	Yes
Mr. Janvrin	Yes

The proposed use is a reasonable one.

Board’s vote:

Mr. Andrew	Yes
Mr. Downing	Yes
Mr. Howland	Yes
Mr. Janvrin	Yes

After careful consideration and review by the Board, Downing made the motion that, based on the information presented and the results of the Boards vote on the points of criteria that must be met for approval of a Variance, and pursuant to the location plan by Blaisdell Survey and dated August 2015, that the Fremont Zoning Board of Adjustment allow the requested Variance 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 Janvrin with unanimous favorable vote 4-0.

Chairman Andrew declared the requested Variance granted.

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 need to be referenced to the property deed. The applicant is responsible to pay a \$16.49 fee to the Rockingham County Registry of Deeds for that recording. There is also a \$40 recording fee due to the Town of Fremont.

Deborah Hamilton and Bill Bartlett said they would submit the required recording fees on Wednesday to Carlson at the Town Hall.

At 7:30 pm Howland made the motion to close this Public Hearing. Motion seconded by Downing with unanimous favorable vote 4-0.

All members of the public left at this time.

CORRESPONDENCE

There was no incoming correspondence received.

OTHER BUSINESS

Carlson circulated a proposed submission calendar for Board meetings in the coming months. With the lack of help in the office, a streamlined process needs to be adopted to schedule hearings and upcoming meetings. Given the Board's meeting schedule of the fourth Tuesday of the month, a submission schedule has been developed that provides the last day an application can be submitted to be heard at each of the next meetings, through March of 2016.

There was discussion about meeting dates in November and December, as the fourth Tuesday falls in the Thanksgiving and Christmas holiday weeks and some members are not available. The meetings were moved up to the third Tuesday, making November 17 and December 15 the revised meeting dates.

Thus the submission calendar is:

Fremont Zoning Board of Adjustment Submission Deadline Schedule

The Fremont Zoning Board of Adjustment will hold public hearings at their regular scheduled meeting of each month (generally the fourth Tuesday of each month). This schedule is subject to change in accordance with Town holidays and other events.

In order to have an application noticed and published for a Public Hearing at the regular schedule Zoning Board meeting of any month, the application must meet the following submittal deadline:

PUBLIC HEARING DATE	APPLICATION DUE BY
Tuesday October 27, 2015	Monday September 28, 2015
Tuesday November 17, 2015	Monday October 19, 2015
Tuesday December 15, 2015	Friday November 13, 2015
Tuesday January 26, 2016	Thursday December 24, 2015
Tuesday February 23, 2016	Monday January 25, 2016

Janvrin moved to adopt the schedule as discussed this evening. Downing seconded and the vote was approved. This will be posted tomorrow.

There was discussion about the need for one additional full member on the Zoning Board of Adjustment. If anyone is interested, they could contact Heidi Carlson for more information.

Fremont Zoning Board of Adjustment Meeting Minutes
Approved 27 October 2015

22 September 2015

The Board's next meeting is scheduled for October 27, 2015.

With no further business, at 7:35 pm Downing moved to adjourn the meeting. Howland seconded and the vote was unanimously approved 4-0.

Respectfully submitted,

Heidi Carlson
Town Administrator