

Present: Chair Doug Andrew, Vice Chair Dennis Howland, Members Jack Downing, Neal Janvrin, Todd O'Malley, Alternate Member Josh Yokela, and Land Use Administrative Assistant Casey Wolfe

Also Present: Tim Lavelle, Brenda Samoissette, Karen Coish, Patty Blain, Joe Goldstein, Nancy Goldstein, Denny Bryne, Joyce Dempski, Mike Bernier & Martin Ferwerda

I. MINUTES

Mr. Howland made a motion to approve the minutes of April 25, 2017. Mr. Janvrin seconded the motion. The motion passed 5-0-0.

II. NEW BUSINESS

Case # 017-003/Special Exception

Daniel Perry Builders seeks a special exception to the terms of Article 12 Section 1201.8 to fill 962 square feet of a wetland to construct a 20 foot wide driveway, the drive will be access for a single family dwelling unit on Thunder Road, Map 2 Lot 1-16

Mr. Andrew read the case into the record. Ms. Wolfe stated that the notice for this hearing was posted two places in town on June 20th, published in the Union Leader on June 19th, and mailed to the abutters on June 16. Tim Lavelle introduced himself as the surveyor representing Daniel Perry Builders. The driveway was originally proposed to be a shared driveway with the neighboring lot. This shared access way went around the wetland area. However, the builders now want each house to have its own driveway. The proposed driveway will fill 962 square feet of wetlands. It is proposed to be 400 feet in length and gravel. He designed the driveway to aim for the "island" in the wetland to limit the impact to the wetland. The wetlands were mapped in 2001 or 2002 but were recently re-mapped.

Ms. Wolfe informed the Board that she sent this application to the Rockingham County Conservation District for review. She also read the comments from other departments into the record. The Conservation Commission wrote: "*The Conservation Commission requests a joint site walk to review the nature and extent of wetlands prior to the hearing date.*" The Planning Board wrote, "*No issues subject to State permitting.*" The Town Administrator wrote, "*Filling of any wetland should consider all environmental impacts and be subject to review of Fremont Conservation Commission. If use of driveway easement at lot 15 would cause less impact, then that should be considered.*" The Fire Chief wrote, "*No comment.*" Mr. Andrew asked if there were any comments from the public. There were no comments. Mr. Janvrin made a motion to continue the case to a site walk on Tuesday July 11th at 7:00 pm. Mr. O'Malley seconded the motion. The motion passed 5-0-0.

Case # 017-004/Variance & Case # 017-005/Variance

Mr. Ferwerda, on behalf of Witham Park at Map 3 Lot 1, seeks a variance to the terms of Article 9, Section 901 of the Fremont Zoning Ordinance to permit proposed lot lines to be

located five feet from existing homes when thirty feet is normally required. The applicant also seeks a variance to the terms of Article 9 Section 902 of the Fremont Zoning Ordinance to allow these proposed lot lines to be less than the required 100 feet.

Mr. Andrew read the case into the record. Mr. Janvrin recused himself from this case. Mr. Doug appointed Mr. Yokela as a full voting member on behalf of Mr. Janvrin. Ms. Wolfe stated that the notice for this hearing was posted two places in town on June 20th, published in the Union Leader on June 19th, and mailed to the abutters on June 16. Mr. Ferwerda introduced himself and the case. He explained that he is representing Mr. Witham who built two homes that straddle their 2,000-foot common boundary. The lot line adjustment is necessary to bring the two homes into compliance. He pointed out the encroaching structures on the plans. He read through the five criteria for a variance and his answers.

Mr. Ferwerda stated that the encroaching houses were built 17 or 18 years ago. He noticed that the two homes were encroaching on his property two years ago. He did not think that having the people move out or demolish the homes was the best option. Mr. O'Malley asked if the homes are moveable. Mr. Ferwerda felt that this would be too much of a burden on the residents of these homes and did not feel that this should be necessary. Mr. Andrew had a question about the house on lot 17 in Governor's Forest. By looking at the plans, it did not appear that this home met the side set-back. Mr. Ferwerda stated that this issue is not before the Board.

Ms. Wolfe read the department comments submitted to the Board. The Fire Chief wrote, "*I have issues with the slope of proposed road, the angle of turn in access road. It would be nice to hear from Albert Witham about this. There are a lot of issues involved with this lot line adjustment.*" The Planning Board wrote, "*See June 7th Planning Board minutes.*" Ms. Wolfe had emailed these minutes to the Zoning Board members on Thursday June 22nd. The Conservation Commission wrote, "*The Conservation Commission requests that the Zoning Board withhold their decision on this application until a joint site visit can be held with the Conservation Commission and the ZBA and the Planning Board.*" The Board of Selectmen submitted the same comments that they submitted to the Planning Board (see attached). Ms. Wolfe read these comments to the Zoning Board per the request of Nancy Goldstein. There were also two letters submitted by the public (see attached). Ms. Wolfe read these letters into the record as well.

Mr. Ferwerda felt that the request for Ms. Wolfe to read the Board of Selectmen's letter, which he felt had nothing to do with the variance requests, were a personal attack on him. Mr. Andrew opened it up to public comment. Mike Bernier commented that he was concerned about this encroachment. Mr. Yokela commented that the reasoning behind the ordinance requiring lot lines to be at least 100 feet is probably to keep track of the lines and avoid confusion. He also commented that the thirty-foot setback is probably to control congestion. Mr. Howland commented that at the time the lot was created the setback may have been twenty feet. He felt that five feet is a little unreasonable. He also expressed he was uncomfortable with the small jogs in the proposed lot line. He felt there should be a site walk. There was some discussion about when this site walk can be scheduled for.

Mr. Yokela asked if the Zoning Board could make suggestions. Mr. Howland explained that they should only consider what is proposed. Brenda Samoissette commented that the sand has come in

front of her house due to the new home. She also voiced some concern that she may be unable to sell the property in the future because her garage is on someone else's property. Mr. Yokela asked the other members what the point of the site walk would be. Mr. Andrew expressed that it is nice to have a visual of what is being requested. Ms. Wolfe read comment number two from the June 6, 2017 letter submitted by Stantec (see attached). Mr. Yokela felt that drawing the lot lines the same shape of the encroaching houses is a little unreasonable. Houses are not necessarily permanent, a storm could come and take them down. Mr. Ferwerda explained to find the lot lines, you would simply hire a surveyor. Mr. Ferwerda emphasized the he is acting as the applicant on behalf of the owner (Mr. Witham). There was some discussion about the best date and time to have a site walk. There was a question from an unidentified woman in the audience about the emergency road meeting the setback. Ms. Wolfe explained that the road does not need to meet a setback because it is not considered a structure. She further explained that the Planning Board cannot move forward until the Zoning Board makes a decision about these two variances. Mr. Howland made a motion to continue the case to Saturday July 22nd at 9:00 am for a site walk. They will meet for the site walk at the end of Country Lane. Mr. O'Malley seconded the motion. The motion passed 4-1-0. Mr. Howland made a motion to adjourn the meeting at 7:57 pm. Mr. Yokela seconded the motion. The motion passed 5-0-0.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Casey Wolfe".

Casey Wolfe
Land Use Administrative Assistant

Following are the comments and discussion items from recent Selectmen's Meetings and subsequent research/historical perspective relative to the Site Plan Review Amendment and Lot Line Adjustment proposed by Martin Ferwerda in May 2017 for parcel 03-002.

From Selectmen's Meeting of April 13, 2017:

1. Fire Chief Richard Butler remarked that both he and former Building Inspector Bob Meade have been challenged over the past six months on the use of this access road and its validity. Butler stated his understanding that this road would always be in place for emergency access, and stated it had been used during at least one major emergency where access to Town was closed off.
2. The intent of the Cease & Desist is to reestablish a workable point of emergency access from the Witham Park to the Governor's Forest Park, so that an emergency vehicle can negotiate the access road throughout the whole year.
3. The 12 foot gravel roadway is (was) nowhere near the deeded easement area as shown on the plans. It never has been in the easement space identified on recorded plans, and has been moved at least twice in the long duration of construction of the project. This area is an easement for public use, and is owned by Ferwerda, to be maintained by Ferwerda.
4. Witham recorded plans indicate "a 50' space from the cul-de-sac across lot 3-1-1.43 to land of Kersey is reserved should it be desired by future owner."
5. Ferwerda engaged a surveyor in April 2017 (after issuance of Cease & Desist) to lay out the property line, after he admitted knowing for some time, that homes within the Witham Park encroach on his lots 17 and 18.
6. The current physical location of the 12 foot gravel way is almost completely outside the easement area as identified on the approved plan. This access area is immediately adjacent to the mobile home recently placed on lot 03-001.001.18. It is too close (too tight) to allow for emergency vehicle apparatus, and questionable if it is suitable for general vehicular access if needed in an emergency situation.
7. The previously existing gravel way has been used in emergency situations, when large trees and wires were down across Route 107 for several days during a storm. The Board wants to ensure fire truck access on this easement area/ROW, including that the slope and turning radius available will accommodate a fire truck, to provide for public safety of residents in either park, or the general public if needed in a major emergency.
8. With weather and current erosion (from rains), coupled with the work done last fall not being properly stabilized, there are significant erosion problems on site and further down the hill (toward the home at the end of Country Lane).
9. Selectmen feel that Ferwerda never put in the travel way within the easement area in a permanent condition. It is believed that Ferwerda has always disagreed with the Planning Board on the right of way issue.
10. Selectmen feel strongly that Ferwerda needs to do a lot line adjustment with the easement area accounted for. They also feel that the 12-foot right of way should be paved, and be maintained

365 days a year with agreement thru Witham's property to be necessary for public safety. It is not intended it be open for use except for emergency situations, but it must be accessible.

11. Selectmen feel that the proposed lot line adjustment should be far less choppy, and might work better as a land swap with Mr Witham to make a clear access way from Tarah Way to Country Lane.
12. A clear and deeded easement exists (50 foot wide) from Country Lane to the Governor's Forest Property (Book 2866 Page 1359). This easement transfers to future owners, including Ferwerda. It is also shown on the Witham recorded plan.
13. A couple of written agreements exist between Witham and Ferwerda for this access way, as both need it to make their parks compliant.

The proposed Site Plan Amendment application was also supposed to include all as-built aspects of Phase I and II of the Governor's Forest Development. It was also to include a final plan for the ROW/easement and address the necessary lot line issues. It does not appear that all of the as-built features, including mobile home placement, are addressed in this application.

The Selectmen voted that no further new dwelling building permits and occupancy permits within the Governor's Forest Park, until Ferwerda does the following:

1. Amend the building permit on lot 03-001.001.018 to show the actual site conditions, and apply for additional work to be done on this lot (for any item not listed on the original building permit);
2. All work done on lot 18 and within the Park is strictly at his (Ferwerda) own risk, including landscaping and any other improvements, given that final approval of the layout and design is the jurisdiction of the Fremont Planning Board through the Site Plan Review Process.
3. A CO will not be issued for lot 18 until the easement area for a 12-foot travel way is designated on an amended plan, approved, and built to complete specifications. An amended Site Plan Review is applied for on all sections of Phase I and II in the Governor's Forest Park to include all existing site conditions and any proposed changes to the original approved plans; and all improvements are constructed and approved by the Town relative to the easement and access way to the Witham property.
4. The Site Plan amendment plans submitted must address the buildings in the Witham Park that are on Ferwerda land, and those items must be addressed by lot line adjustment or other legal method.
5. At such time as substantial work has been completed and approved on the above list, Ferwerda can, by special request, meet with the Board of Selectmen to discuss moving ahead on previously Ceased work areas.
6. Work shall be subject to review by the Town Engineer, especially in Phase III where significant slopes are involved.
7. Any work done shall be in compliance with Town Rules, Regulations, Ordinances, and NH Laws.

Ferwerda is allowed to continue site work on Phase III with proper bonding and review by the Town's engineer. (see attached Selectmen's letter dated 04/20/2017)



TOWN OF FREMONT

Office of the Selectmen

PO Box 120

Fremont NH 03044-0120

Telephone 603 895 2226 x 10

Facsimile 603 895 3149

20 April 2017

Martin Ferwerda
Ferwerda Development Co
37 Tarah Way
Fremont NH 03044

Dear Marty:

This will follow-up our meeting last Thursday night in response to your being issued a Cease and Desist Order for work within the Governor's Forest Park.

From that meeting, the Board lifted the Cease and Desist to include you being able to complete certain work, and from it came a list of the items that need immediate remediation. As you clearly understood that evening, NO Occupancy Certificates will be issued for work within the development, nor will any building permits be issued for new dwellings within the development. You also clearly understood that any work you do on site is done at your own risk pending the final approval by the Fremont Planning Board of an Amended Site Plan on/in all facets of Phase I and II of the development.

We also expressed to you the safety concerns about steep slopes and danger caused by the rocks leftover from the blasting ongoing in Phase III. These items all remain your responsibility as you stated the design intent is not compliant with general town road specifications.

The following were the conditions placed on the partial lifting of the Cease and Desist Order: to modify the Cease and Desist order to allow for work to continue in other parts of the park)

1. Amend the building permit on lot 03-001.001.018 to show the actual site conditions, and apply for additional work to be done on this lot (for any item not listed on the original building permit);
2. All work done on lot 18 and within the Park is strictly at your own risk, including landscaping and any other improvements, given that final approval of the layout and design is the jurisdiction of the Fremont Planning Board through the Site Plan Review Process.
3. A CO will not be issued for said lot 18 until the easement area for a 12-foot travel way is designated on an amended plan, approved, and built to complete specifications
4. An amended Site Plan Review is applied for, and granted by the Fremont Planning Board, for all sections of Phase I and II in the Governor's Forest Park to include all existing site conditions and any proposed changes to the original approved plans.

5. All improvements are constructed pursuant to the approved plan, easements issued as applicable, and any necessary monitoring by the Town is completed and approved. This includes construction of the easement and access way to the Witham property.
6. The Site Plan amendment plans submitted must address the buildings in the Witham Park that are on Ferwerda land, and those items must be addressed by lot line adjustment or other legal method to bring them into compliance with all Town Ordinances and Regulations.
7. At such time as substantial work has been completed and approved on the above list, Ferwerda can, by special request, meet with the Board of Selectmen to discuss moving ahead on previously Ceased work areas.
8. Work shall be subject to review by the Town Engineer, especially in Phase III where significant slopes are involved.

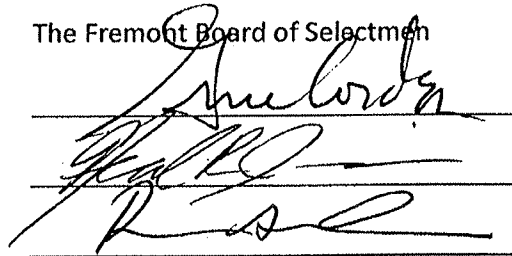
As always, any and all work done shall be in compliance with Town Rules, Regulations, Ordinances, and applicable NH Statutes. As you know, the Site Plan is the jurisdiction of the Fremont Planning Board, and we have authorized you to work with Roger Barham as a representative of both Boards, but all approvals shall be through the proper Board, when that be the Planning Board or the Board of Selectmen.

You are allowed to continue site work on Phase III with proper bonding and review by the Town's engineer.

You pledged to get the majority of this work completed within the next six weeks, and we will look forward to a speedy resolution. If you have any questions, please feel free to contact our office and keep in close contact with the Fremont Building Inspector and the Fremont Planning Board as you proceed.

Sincerely yours,

The Fremont Board of Selectmen



C: File / Governor's Forest
03-001.001.18B
Fremont Planning Board
Rick Foye, Building Inspector

6-5-17

As residents of Governors Forest for many years we want to voice our concern that the access road will be reestablished.

It is in the original site plans for Governors Forest. It was there when we purchased our home and it has been used a number of times in emergency situations as many residents can confirm.

This road needs to be reestablished and it needs to be maintained year around for community safety of Governors Forest, Withams Park & the Town of Fremont.

Thank You.

Joe & Nancy Galdrick
Dick and Mary Raymond
Joyce Dempski

June 22, 2017

Planning Board
Zoning Board
Town of Fremont, NH
P.O. Box 120
Fremont, NH 03044

RE: 4-2 Georges Lane

Dear Gentlemen:

I am writing this letter to both boards as the issue I am writing about is being addressed and discussed by both of you. My name is Patricia M. Blair and I am the legal owner of the property located at 4-2 Georges Lane, Fremont, in the Witham Park (5760/1089; 3/1-1-42B). This is the property that abuts the newly moved emergency access road and property along Tarah Way owned by Mr. Ferwerda.

I purchased the home in October, 2016 from the previous owners, Horace and Sharon Rommelman, and during the discussions with the park owner, Al Witham, and the seller's real estate agent, Maria Prentice of Coco, Early & Associates, I was not told of any problems with the existing lot line / placement of the house on the lot. It was only after the trees started coming down and the road was moved to prepare for a home being built was I made aware by my neighbor of an issue.

In hindsight, I should have spoken with the neighbors before purchasing the home and I should have had a survey done. In my defense, when you look at a home in an established park with wonderful landscaping and what appears to be a defined yard, assumptions were made that the lot was in fact the one I would be using and paying rent for, not to mention the lot I am maintaining and continuing to maintain with landscaping.

I am writing this letter to request that you consider accepting the lot line adjustment that has been offered by Mr. Ferwerda if at all possible. I know that most of the discussion at the previous Planning Board meeting held on June 7, 2017 had to do with the emergency access road and its inability to exist as it is currently constructed. Very little attention was paid to the lot line adjustment that affects my home. I realize that these two issues go hand-in-hand; however, as the lot line currently sits, it goes directly through my master bathroom and bedroom. I am afraid that if this lot line adjustment / easement is not granted, I will be left with a home that is not suitable for re-sale. I understand I may have to move my shed currently located next to the access road and while that is a cost I will need to incur, I understand the necessity.

I appreciate any consideration you can provide.

Sincerely,



Patricia M. Blair



June 6, 2017
File: 195112103

Mr. Brett Hunter, Chairman
Fremont Planning Board
PO Box 120
295 Main Street
Fremont, NH 03044

Dear Mr. Hunter:

**Reference: Governor's Forest Residential Site Plan – Lot Line Adjustment
Lot Line Adjustment for Ferwerda & Witham
Route 107, Fremont, NH
1st Review**

We have reviewed the following information, submitted by Ambit Engineering, Inc. (AEI) for the subject project:

- Proposed Lot Line Adjustment Plan, Sheets 1 & 2, prepared by AEI, dated April, 2017 and most recently revised on May 8, 2017
- Subdivision check list, dated May 9, 2017

This submittal was reviewed in response to a request by the Town of Fremont and was reviewed for conformance with the applicable sections of the Town of Fremont Site Plan & Subdivision Regulations as well as other relevant local and state regulations and accepted engineering practice. We have the following comments:

The plans show two residential homes, two associated garages, and one shed from the Witham development, located over the property line, encroaching onto the Ferwerda property. To correct the encroachment issue, the plan proposes numerous, short lot line adjustments so the four buildings would be located within the Witham property. The proposed lot lines simply off-set each of the four structures by 5'. The plans do not address the shed that encroaches onto the Ferwerda property. The plans also show a proposed relocation of the emergency access easement between the two properties.

Lot Line Adjustment Comments:

1. The Zoning District(s), where the two affected lots are located, with the corresponding minimum setbacks, lot size, and frontage requirements should be added to the plan.
2. We recommend that the numerous, short lot lines be replaced with two or three longer lot lines which will be easier for the affected residents to locate, understand, and abide by. For example, currently the westernmost resident's lawn extends more than 5' from their house. It would appear to be more appropriate and conforming to propose lot lines that are in the woods, between the two properties, providing a reasonable land area around the existing structure.
3. We recommend that the proposed lot lines are revised to provide the required structure



June 5, 2017
Mr. Brett Hunter
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**Reference: Governor's Forest Residential Site Plan – Lot Line Adjustment
Route 107, Fremont, NH
1st Review**

setbacks for the four encroaching structures. Where two of the structures are approximately 42' apart, the proposed property line should be located 21' from each structure.

4. More conforming lot lines will reduce the overall size of the Ferwerda parcel. If the original Ferwerda development approval required a specific amount of common land, the new area should be noted on the plan.
5. A note should be added to relocate the encroaching shed conforming to the appropriate setbacks from the proposed property lines.
6. To assist the Planning Board in visually understanding where the new lots lines would be, we recommend that the Developer stake out the proposed lot corners and the Board visit the site to view the new lot lines.

Access Easement Comments:

7. The access easement plan should include the complete limits of the actual access road that is to be constructed between the two cul-de-sacs.
8. We recommend that the easement be relocated to not be combined with the paved driveway for the residential structure that is under construction on the Ferwerda property. Typically, Fire Departments do not want to navigate around private vehicles parked on emergency access roads.
9. Considering the steep slope of the access road, we recommend that the Planning Board require that it be paved and that all slopes be fully stabilized with vegetation and erosion fabric to avoid future erosion and stability issues.
10. We recommend that the plan also include two steel farm gates, one at each end, locked with a Knox lock, accessible by the Town's personnel.
11. The proposed grades of the access road should be added to the plan to confirm that the road will be accessible by safety vehicles, such as a fire truck. The Fire Chief should review and approve the design.
12. Considering two of the centerline radii of the access road are only 37.5', a proposed truck turning template should be added to the plan to demonstrate that a firetruck can access the road.
13. Considering the proposed access road is located on both properties, two written access easements must be provided for review and approval by the Town, one from each land owner.



June 5, 2017
Mr. Brett Hunter
Page 3 of 3

**Reference: Governor's Forest Residential Site Plan – Lot Line Adjustment
Route 107, Fremont, NH
1st Review**

Please call if you have any questions.

Sincerely,

STANTEC CONSULTING SERVICES INC.

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Project Manager
Tel: (603) 669-8672
Fax: (603) 669-7636
dan.tatem@stantec.com

c: Marty Ferwerda, Owner
Heidi Carlson, Town Administrator
Casey Wolfe, Planning & Zoning Administrator
Rick Foye, Building Inspector
Rene LaBranche, Stantec