

ADMINISTRATIVE DECISION APPEAL



TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. 2017-15

DATE FILED 9-29-17

ZONING BOARD CLERK Dec

Phone No 603-569-8910

Name of applicant

Thomas Fergus

Address PO Box 1123, Wolfeboro Falls, NH 03896

Owner of property concerned

SAME

(if the same as applicant, write "same")

Address

(if the same as applicant, write "same")

Location of property 53-55 River St., Rochester, NH 03867

Map No.

121

Lot No.

46

Zone

R2

Description of property

(give length of lot lines frontage side rear lines)

Proposed use or existing use affected

4 unit Apt. Bldg.

APPEAL OF AN ADMINISTRATIVE DECISION

The undersigned alleges that an error has been made in the decision determination or requirement

of

Joseph Devine

on

09-01-17

name of enforcement officer

date

to

Tom Fergus

in relation to Article

Chapter 40.6

Section

101 (2015)
1 (2009)

of the

NFPA

and hereby appeals said decision.

Signed

[Signature]
(Applicant)



City of Rochester, New Hampshire

Department of Building, Zoning & Licensing Services

NOTICE OF VIOLATION

DATE: September 1, 2017
TO: Thomas & Julie Fergus
PO Box 1123
Wolfeboro Falls, NH 03896
RE: Fire Code & Life Safety Code

You are hereby notified that a condition, which is in violation of the City of Rochester's City Ordinances and/or NH State Statutes listed below, has been found existent on the premises located

AT: 53 River Street, 0121-0046-0000 in the R2 Zone.

**IN THE FORM
OF:**

You are in violation of the following:

1. Chapter 40.6
 - a. NFPA 101(2015 Edition)
 - i. Section: 24.3.4.1.1
 - ii. Section: 24.2.2.3
 - iii. Section: 24.3.4.2.2
 - iv. Section: 24.3.4.2
 - v. Section: 24.2.2.3.1
 - vi. Section: 31.3.2.1
 - b. NFPA 1(2009 Edition)
 - i. Section: 11.1.2
 - ii. Section: 11.1.5.1
 - iii. Section: 11.1.5.2
 - iv. Section 11.1.6.2
 - v. Section: 10.11.6
 - vi. Section: 11.1
 - vii. Section: 11.1.7.6
 - viii. Section 4.5.8.3

**YOU ARE
HEREBY
ORDERED TO
COMPLY WITH
THE
FOLLOWING
CODES:**

RSA 153:10-a & NFPA 101 (2015) Section 24.3.4.1.1 A hard-wired, interconnected smoke alarm with battery backup is required in every bedroom, outside every bedroom, and on every level of the dwelling. One or more additional smoke alarms are required to provide coverage in these areas. *No smoke alarms in any of the bedrooms*
NFPA 101 (2015), Section 24.2.2.3 Every bedroom and living space must be provided with two means of escape. A secondary means of escape can be a

door or window meeting certain requirements set forth by the code. A bedroom or living area lacks a second means of escape and needs to be provided with one. *No window in bedroom 2*

RSA 153:10-a & NFPA 101 (2015) Section 24.3.4.2 Whereas the living room is provided with a fuel-gas fired appliance and is also being used as a bedroom, a carbon monoxide detector must be installed in that room to provide protection to anyone that may sleep there.

RSA 153:10-a & NFPA 101 (2015) Section 24.3.4.2.2 A carbon monoxide alarm is needed on each level of the dwelling unit. One is also needed within the vicinity of every bedroom. One or more detectors need to be added to provide proper coverage. *None found during the inspection*

NFPA 101 (2015) Section 24.2.2.3.1 Positioning of furniture and other belongings prevent or obstruct immediate access to the egress window. The room needs to be rearranged so that at least one egress window is immediately accessible.

NFPA 101 (2015) Section 31.3.2.1 If the basement is going to be used for storage, a one-hour fire-rated separation between the basement and the rest of the building, OR sprinkler coverage, must be installed to protect occupants from the higher level of hazard

NFPA 1 (2009) Section 11.1.2 Restore missing outlet covers

NFPA 1 (2009) Section 11.1.5.1, 11.1.5.2, & 11.1.6.2 Extension cord use in lieu of permanent wiring is prohibited by the code. The equipment or appliances need to be repositioned so that they can be plugged into a permanent electrical outlet, or a new electrical circuit and outlet must be provided so that the equipment can be plugged directly into it. *Extension cord use in bedroom*

NFPA 1 (2009), Section 10.11.6 A propane grill was noted against the back of the building. Such grills must be located at least ten feet from the building whereas it is a multifamily occupancy

NFPA 1 (2009) Section 11.1 GFI circuit protection is needed for outlets within six feet of wet areas such as sinks. There was no evidence that the outlet in bathroom was protected. This can be addressed by replacing the outlet by the sink with a GFI outlet, or by replacing the breaker serving that circuit with a GFI breaker.

NFPA 1 (2009) Section 11.1.7.6 Extension cord use in lieu of permanent wiring is prohibited by the code. The equipment or appliances need to be repositioned so that they can be plugged into a permanent electrical outlet, or a new electrical circuit and outlet must be provided so that the equipment can be plugged directly into it

NFPA 1 (2009) Section 4.5.8.3 Some of the units had old, non-functional smoke alarms that appeared abandoned in place. These devices need to be removed to avoid any false sense of safety

**CORRECTIVE
ACTION
REQUIRED:**

1. Smoke alarms must be in every bedroom
2. Window must be installed in second bedroom
3. Carbon Monoxide alarms must be installed on each level of the dwelling unit. Also in the vicinity of every bedroom.
4. Rooms must be arranged so that at least one egress window is immediately accessible.
5. If basement is going to be used for storage it must be separated from the rest of the building with one-hour fire rating or sprinkled.

6. Missing outlet covers need to be restored.
7. Extension cords may not be used in lieu of permanent wiring.
8. Grills must be located at least ten feet from the building.
9. GFI circuit protection is needed for outlets within six feet of wet areas such as sinks.
10. Old, non-functional smoke alarms must be removed.

**COMPLY NO
LATER THAN:**

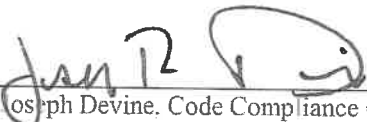
Within 24 hours, but no later than September 21, 2017

PER ORDER OF ROCHESTER CODE OFFICE.

Penalty: Any person who shall violate a provision of this code shall be subject to a civil penalty not to exceed \$275 for the first offense and \$550 for subsequent offenses for each day that such violation is found to continue pursuant to RSA 676:17. We also reserve the right to issue a citation pursuant to RSA 31:39-c and 31:39d or use any legal remedies provided by the State of New Hampshire and the City of Rochester. Appeals shall be made to the Zoning Board of Adjustments (ZBA) in the form of an APPEAL FROM AN ADMINISTRATIVE DECISION within 30 days of the date of this notice.

It is the responsibility of the property owner to notify the City of Rochester Code Enforcement Officer upon completion of work. If said violation is not corrected by the above date, this citation will be submitted to the Rochester District Court for Civil Prosecution (a court citation will be issued). It is the responsibility of the property owner to obtain all necessary building and Historic District Commission permits.

SIGNED

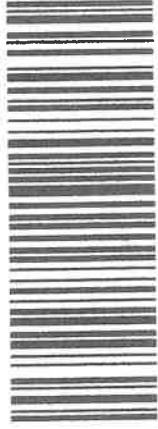

Joseph Devine, Code Compliance Officer

DATE:

09/01/2017

City of Rochester
Building, Zoning, & Licensing Svcs
31 Wakefield St.
Rochester, NH 03867

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09/01/2017

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ZIP 03867

011D11642289

Thomas & Julie Fergus
PO Box 1123
Wolfeboro Falls, NH 03896

1st Airmail
2nd
R

95

09091631123 8001



TOM & JULIE FERGUS

September 29, 2017

Zoning Board of Adjustment

City of Rochester
31 Wakefield Street
Rochester, NH 03867

RE: 53-55 River Street

Dear ZBA,

I have reviewed the NOTICE OF VIOLATION dated September 01, 2017 from Joseph Devine, code compliance officer.

I am hereby filing an appeal from an administrative decision.

Enclosed is the electrical permit application dated July 11, 2017 that was approved by the Building Department on July 14, 2017. Berry Electric has been working on the deficiencies that triggered the violations, and the violations listed on the NOTICE are all either complete or are near completion.

I called and spoke with Mr. Devine and inquired why the heavy handed approach when the work is being done and Mr. Berry reports he is in frequent contact with the building department and fire department contacts. Having no satisfactory reply, I am left with no alternative but to appeal this decision.

Thank you and Best Regards,



Tom Fergus

43 Elm Street, PO Box 1123
Wolfeboro Falls, NH 03896
603-569-8910



Electrical Permit Application

City of Rochester, New Hampshire

Department of Building, Zoning, and Licensing Services

31 Wakefield St. Rochester, NH

Telephone: 603-332-3508

Issue Date:	_____
Permit #:	_____
Map#	<u>121</u>
Lot#	<u>416</u>
Block#	<u>0</u>
Zoning	<u>R2</u>

Location of Construction (Address): 53-55 River Street.

Property Owner: Tom Fergus-

Phone #: _____

Mailing Address: _____

City: _____

State: _____

Zip Code: _____

E-mail: _____

Contractor: Berry's Electric

Phone #: 335-4474

Address: 45 Darby Lane

City: Rochester

State: N.H.

Zip Code: 03839-

Master's Name: Paul C Berry

NH Master Electrician #: 8391

Expiration: 5-18-

Email: _____

Primary use of Property is:

Residential

Commercial

Mixed Use (Both Res & Com)

Services, Panels, Disconnects	Quantity	Devices	Quantity	Luminaries	Quantity
60		Receptacles		Incandescent	
100		Switches		Fluorescent	
200		Motion Sensor		Neon	
400		Carbon Monoxide	<u>12</u>	L.E.D.	
600		Smoke Detectors	<u>12</u>	Exit/Emergency Lts	
800		Other		Exh/Paddle Fan	
1000					
1200					
1600		Range		Equipment	
2000		Oven		Washer	
Other _____ Amps		Microwave		Dryer	
Meters		Dishwasher		Boiler	Gas Oil
Motors		Disposal		Furnace	Gas Oil
Air Comp/Cond.		HW Heater		A/C Unit	
Electric Heat		Refrigerator/Freezer		Door openers	
Heat Pump		Other		Sump Pump	
Manufactured Structure					
Modular Structure		Up to 25 KVA		Transformers	
Fire Pump		25 KVA & over			
Standard Temp Service					
Illuminated Sign					
Above ground pool		Up to 10 KVA		Generators and Transfer Switches	
In Ground pool		10KVA- 75 KVA		Over 75 KVA	
Misc				Transfer Switches	

Description of work to be performed: replace smoke & CO Det. and remove fire alarm C.I. on furnace (gas) as required by RFD. label panel in basement.



Building, Zoning and Licensing Services
31 Wakefield Street, Rm 107
Rochester, NH 03867
(603) 332-3508 Fax (603) 509-1912

Appeal of Administrative Decision Application Checklist

- ✓ • A copy of the Administrative Decision must be attached.
- ✓ • Complete the application form.
- ✓ • A narrative explaining why you feel the administrative decision was in error.

Permit

Attach sketches, plot plans, photographs, construction plans, or any other materials that may help explain the proposal. Include copies of any prior applications concerning the property.

- ✓ • Application fee \$175.00 - make check payable to City of Rochester
- ~~Complete the abutter's list. The Building, Zoning & Licensing Department will mail a public hearing notice to each abutter. The applicant is to pay the certified fee for each legal abutter (\$3.78 for each abutter) check made payable to the City of Rochester~~

All of the above information must be completed and submitted to the Building and Zoning Office **within 30 days** of the original decision.

If you have any questions with any of these requirements, please call Karen at 332-3976.