

Robert Frese

v.

Town of Exeter

Docket No.: 26682-13EX

ORDER

The board has received the “Taxpayer’s” September 11, 2013 letter (filed in response to the September 6, 2013 Decision denying his appeal) stating he “would like to appeal this decision and appear before you as I have new information to present which could make a difference. . . .” The board treats this letter as a rehearing motion (“Motion”) pursuant to RSA 541:3 and Tax 201.37. The suspension Order entered on September 19, 2013 to give the board more time to review the Motion is hereby dissolved. The Motion is denied for the reasons stated below.

The Motion does not explain what “new information” the Taxpayer would like to present or why, if at all, that “new information” could not have been discovered with due diligence in preparation for the August 29, 2013 hearing on the merits, which the Town prepared for and attended. Further, there is no explanation of how the “new information” would affect the Decision to deny the appeal. The board’s rules are clear that a rehearing motion cannot be

granted in such circumstances. See, in particular, Tax 201.37(g):

Parties shall submit all evidence and present all arguments at the hearing. Therefore, rehearing motions shall not be granted to consider evidence previously available to the moving party but not presented at the original hearing or to consider new arguments that could have been raised at the hearing. Except by leave of the board, parties shall not submit new evidence with rehearing motions. Leave shall only be granted when the offering party has shown the evidence was newly discovered and could not have been discovered with due diligence in time for the hearing and when the new evidence will assist the board.

For these reasons, the Motion is denied. Pursuant to RSA 541:6, any appeal of the Decision must be filed in the supreme court within thirty (30) days of the date on this Order with a copy provided to the board in accordance with Supreme Court Rule 10(7).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Chair

Albert F. Shamash, Member

Theresa M. Walker, Member

Certification

I hereby certify a copy of the foregoing Order has this date been mailed, postage prepaid, to: Robert Frese, 43 Hayes Park, Exeter, NH 03833, Taxpayer; and Chairman, Board of Selectmen, Town of Exeter, 10 Front Street, Exeter, NH 03833.

Date: 9/26/13

Anne M. Stelmach, Clerk