



Fremont Board of Adjustment
January 28, 2014
Meeting Minutes

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

Mr. Andrew opened the meeting at 7:05 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.

At the November 12, 2013 meeting Mr. Andrew designated Alternate Dennis Howland 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.

Mr. Andrew appointed Mr. Holmes as a voting Member for tonight's meeting in Mr. Boisvert's place.

MINUTES

Mr. Downing made the motion to accept the minutes of the December 17, 2013 meeting as written. Motion seconded by Mr. Howland with unanimous favorable vote except for Mr. Holmes who abstained.

Case #013-004
Richard Hewett & Lisa Darling
29 Scribner Road
Map 2 Lot 001-002

Present: The applicant was not present and there were no abutters present.

Mr. Andrew opened this Public Hearing at 7:05 p.m. and said that this is a continuation of the December 17, 2013 Public Hearing and the January 4, 2014 site visit.

Mr. Andrew reported that a site visit was scheduled and noticed for 10:00 am on January 4, 2014 the ZBA at the site of Map 2 Lot 001-002 which ZBA Alternate Dennis Howland attended.

Mr. Howland submitted the following written report.

On Jan 4th, I visited the home of Dick Hewitt to look at where he wants to put a garage. Here are my observations.

- 1. The slope from the driveway down to the wetland is gradual and populated with trees and brush.*
- 2. The location of new garage would require cutting down at least 3 large (> 1ft diameter) deciduous trees.*
- 3. It was impossible to determine the extent of the wetlands, as everything was covered with snow.*
- 4. The slope from the driveway up to the house was not as steep as I imagined it.*
- 5. Old Scribner Rd as it runs easterly from the driveway and in front of the Hewitt House is pretty well grown in. It is almost hard to recognize there is or was a road there. It is hard to imagine that Old Scribner Rd will ever be returned to use as a road. If it were abandoned by the town, the land would revert to the abutters, and Mr. Hewitt would pick up some room at the front of his property. The property on the other side of Old Scribner fronts NEW Scribner so this is the BACK of that lot. This makes me wonder what kind of a setback would apply along this boundary since it is the front of one lot but the back of another. Regardless of the actual dimension, I would be more in favor of granting a variance on the front set back allowing the garage to be placed away from the wetland, along the east side of the driveway, on level ground, and without blocking the view of the house.*

Conclusions:

- a. The extent of the wetland is impossible to see this time of year.*
- b. The plan presented does not necessarily reflect what was built. We need a better plan if we are to consider a variance.*
- c. There may be some options for locating garage which should be explored.*

The Board again reviewed the plan set previously submitted by the applicant which was a 2000 septic design plan that show proposed locations of the dwelling and driveway as well as wetland delineations. The house and driveway have since been built, but there is no proof that they were built in the proposed locations. The proposed garage the owner wants to build now was located on the plan.

Additional comment sheets were received from the following: comments in *italics*.
Building Official/Code Enforcement Officer: *No comment*

Health Officer: *Need to make certain this does not impact water/wetlands.*

Conservation Commission: *Conservation Commission is firmly opposed to allowing a Variance from the terms of Article IX Section F. The Commission feels that; 1(more up-to-date information delineating the wetland is needed to make a decision; and 2) there are other options on the property to locate the garage thereby not impacting the wetland at all."*

There was also a discussion relative to other location options for the proposed garage building. The Members agreed that due to the snow cover scheduling another site visit at this time would be pointless because the extent of the slope of the property or wetland cannot be properly determine.

Upon further discussion the Members agreed that there is not enough current and/or up-to-date information relative to wetland delineation for them to make an accurate determination relative to how far into the 100' buffer the proposed building would encroach therefore determining the extent of the Variance.

At 7:30 pm Mr. Holmes made the motion to continue this Public Hearing to 7:00 pm on March 25, 2014 to allow time for Mr. Hewett to gather more up-to-date information and a plan from a wetland professional to accurately depict the wetland boundary to submit to the Board, and for him to submit a plan that shows the actual current locations of the existing house and driveway. Motion seconded by Mr. Downing with unanimous favorable vote.

Mr. Hewett will be notified of this voted action.

Case #014-001
PSNH

Present: Laura Gaines and Sandra Gagnon with PSNH, Sherrie Trefry of GZA GeoEnvironmental, Inc., Abutters/property owners C. L. Magnusson, Patricia Kelly, Robert Bartley, Michael Sullivan, George Cowan, Cookie Cowan, John Foye, Nathan Draney, Realtors Bill Bartlett and Deb Mullen; Lars Ekendahl, David Ekendahl, and Kevin Hatch.

Mr. Andrew opened this Public Hearing at 7:35 pm and read the public notice 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 Tuesday January 28, 2014 at the Fremont Town Hall, downstairs Land Use meeting room, for Public Service Company of New Hampshire. The applicants are seeking a Special Exception from the terms of Article IX Section H as set forth in the Town of Fremont Zoning Ordinance to allow wetland and wetland buffer impacts for a thermal uprate project and replace four (4) pole structures with taller structures within the existing Public Service Company of New Hampshire (PSNH) utility right of way corridor in Fremont, New Hampshire. The proposed project would impact properties located at Map 2 Lots 22-38, 70, 156-1-23-1, 156-2, and 156-2-3.

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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.

Mr. Andrew stated that this hearing was noticed on January 7, 2014 at the Fremont Post Office and Fremont Town Hall and in the January 10, 2014 edition of the Manchester Union Leader Newspaper. The applicant and all abutters were notified via certified mail on January 10, 2014 and all returns have been received except for that of abutter Ackerman. The application consisted of a cover letter of intent, six plus sets of site plans, a current abutters list, proper check amount and a November 5, 2013 letter of denial/referral from the Fremont Building Official/Code Enforcement Officer.

Mrs. Bolduc explained the purpose of the Board and the procedure for a Special Exception. Mr. Andrew read Article IX-H of the Fremont Zoning Ordinance as follows.

- H. Special Exceptions: The Board of Adjustment, after proper public notice and public hearing, may grant special exceptions for the following uses within the district, the application for such uses having been referred by the Planning Board for site plan review, the Conservation Commission, the Health Officer and Building Inspector and reported upon by all four (4) prior to the public hearing or thirty (30) days have elapsed following such referral without receipt of such reports.*
- 1. Recreation, including golf courses, parks (but not an amusement park) boating, fishing, landings, picnic areas and any non-commercial open-air recreation use, provided there are adequate provision for disposal of waste products and for parking.*
 - 2. Dredging, filling, drainage (in compliance with the RSA 149:8a) or otherwise altering the surface configuration of the land; streets, roads and other access ways and utility rights if essential to the productive use of land if so located and constructed as to minimize any detrimental impact of such uses upon the wetland and watershed protection areas.*
 - 3. Proper evidence to this effect shall be submitted in writing to the Board of Adjustment and shall be accompanied by the findings of a review by the Rockingham County Soil Conservation Service District of the environment effects of such proposed use upon the wetland and watershed protection area in question.*

Special Exception criteria was discussed. The three questions that must be answered to decide whether or not a special exception can be legally granted are:

1. Is the use one that is ordinarily prohibited in the district?
2. Is the use specifically allowed as a special exception under the terms of the ordinance?
3. Are the conditions specified in the ordinance for granting the exception met in this case?
Condition #1: Is the use essential to the productive use of the land?
Condition #2: Is the use located and constructed as to minimize any detrimental impact upon the wetland and watershed protection area?

Ms. Trefry issued correspondences to the Conservation Commission, Planning Board, Health Officer and Code Enforcement Officer, via certified mail received on December 13, 2013, requesting referrals to the Zoning Board of Adjustment, as per Article IX Section H. All referrals have been received.

The Board received a January 22, 2014 report from CWS, CSS, Michael Cuomo with the

Rockingham County Conservation District (RCCD) as required in Article IX Section H-3. In his report Mr. Cuomo stated the following.

An office review was conducted of the following material: the “Environmental Permitting Plan” set prepared by GZA; GZA letter to RCCD dated 17 December 2013; GZA letter to Doug Andrew dated 17 December 2013: application for Special Exception; NHDES Dredge and Fill application dated November 2013; and the e-mail from Kim Tuttle at NH Fish and Game dated 10 December 2013.

Review of these documents show a well conceived plan to limit natural resource impacts. Proper installation and maintenance of proposed erosion and sediment control measures is the remaining step to achieve the desired level of protection for the natural resources in the vicinity of the proposed work.

A Special Exception for altering the surface configuration of the land may be granted if it is “essential to the productive use of the land” and “constructed as to minimize the detrimental impact of such uses upon the wetland and watershed protection areas” (zoning IX.H.2). Utility rights-of-way were specifically mentioned as a use which qualifies for a Special Exception. The information reviewed indicates the project is designed to meet this requirement and, in our opinion based on this review, should be granted a Special Exception.

In her cover letter of intent Ms. Trefry related, in part, that PSNH is proposing a thermal uprate project and is seeking a Special Exception for wetland and watershed protection setback impact for the portion of the 225’ wide H141 transmission line corridor that occurs in Fremont.

The proposed project requires:

- 4 structure (pole) replacements and splice work in 2 spans within the existing right of way.
- Requires 8,090 sf of temporary wetland impact for construction access and,
- 16 sf of permanent impact for 1 structure replacement within a wetland.
- 3,400 sf of temporary impact to a prime wetland buffer.

The properties that contain proposed impacts to wetland and wetland buffers include those located at Map 2 Lots 22-38, 70, 156-1-23-1, 156-2, and 156-2-3.

The Board reviewed the plan set submitted by the applicant. This included pictures and a plan set prepared by GZA GeoEnvironmental, Inc. dated October 2013 that showed the PSNH easement that runs through Fremont. The plans are titled “PSNH Thermal Uprate of H141 Transmission Line 115kV Kingston Tap to Great Bay Substation” and names the towns of Danville, Fremont, Brentwood, Exeter and Stratham, NH. Denotations on the plans included wetland and 100’ wetland buffer delineation, edge of PSNH right of way, existing route of transmission line and proposed temporary impact area. It also showed locations of proposed conductor splicing, existing structures, replacement of existing structures, stump grindings and erosion control barriers as well as observation areas of state threatened plant, endangered animal species and an archeological resources area. This consisted of several sheets including and Overall Locus Plan and Sheet Layout and Environmental Permitting Plans.

Comment sheet were received from the following: comments in *italics*.

Conservation Commission: *The Conservation Commission has no objection to the proposed PSNH uprate project and granting of the Special Exception.*

Building Official: *No comment.*

Health Officer: *No comment.*

Road Agent: *No comment.*

Police Chief: *No Concerns.*

Fire Chief: *No issues.*

The Board received favorable notes for the Special Exception from the abutters C.L. Magnusson, Betty Metevier.

Ms. Gaines explained that the proposed project includes the thermal uprate of the existing 115kV H141 transmission line all the way from the Great Bay Substation in Stratham to Chester. PSNH intends to intermittently increase the electricity load conducted through the H141 transmission line, which will result in increased operating temperatures that cause the lines to sag between structures. The proposed project is being undertaken to address line to ground clearance issues that may arise during this intermittent load transfer. The options for resolving clearance issues along the H141 corridor include replacing pole structures with taller structures, installing a PhaseRaiser lift kit to increase the height of the existing pole structure, or modifying the terrain beneath the line span to increase the distance to the line. In addition, the increased temperatures require that all existing splices along the line be replaced with new splices.

In answer to some questions by abutters and Board Members Ms. Gaines and Ms. Trefry stated:

- Most of the pole replacements need temporary wetland impact.
- There is only one pole replacement in actual wetland. The others are within the 100' buffer.
- The structures will be replaced with wood or steel. Foundations are not always needed so they can be placed directly into the ground.
Erosion control will include silt fencing, stump grinding. Timber mats are used for heavy equipment access through wetland and archiologically sensitive areas.
- GZA has the contract for environmental monitoring and will be onsite when they are working in the wetlands.
- Fish & Game has prescribed best management practice which will be followed.
- Construction is scheduled for fall of 2014.

In answer to a question about possible increase in the electromagnetic field (EMF), Ms. Gagnon stated that as a result of the proposed uprate project, the EMF could increase to approximately 3–4 mG in peak load situations. She explained that running a household vacuum could emit approximately 20mG. There will be an increase in the electromagnetic fields if the lines have to pick up any further load, but the levels are far below that which you typically have in your home.

Ms. Trefry and Ms. Games explained that structure height includes 10% plus 2' underground and the pole height differences will be:

- Figure 235 is an existing 50' structure to be replaced with a 60' structure.
- Figure 236 is an existing 55' structure to be replaced with a 60' structure.
- Figure 246 is an existing 50' structure to be replaced with a 55' and is in a prime wetland.
- Figure 250 is an existing 50' structure to be replaced with a 65' structure.

Ms. Trefry said access roads will be off Copp Drive, Rt 107 and Red Brook Road and only from the areas where there is existing access so they will not go over an area that has not been previously disturbed. She added that the ground will be cleared in the locations of replacement poles. Ms. Trefry said timber mats are used for heavy equipment access through wetland and archeologically sensitive areas and GZA will be onsite for erosion control.

Ms. Trefry said the wetlands permit application was filed with the town of Brentwood at the request of Frank Richardson of NH DES and the state wetlands permit applications are being reviewed by PSNH and will be filed with NH DES.

Mr. Andrew explained that the Zoning Board of Adjustment is ruling on the Special Exception for wetland and watershed impact issues only and not the thermal uprate project.

Mr. Andrew asked if the public had any further comments either in support or in non-support of the Special Exception request. With no further questions or comments by the public Mr. Andrew closed the meeting to the public.

After some discussion the Board Members unanimously agreed that a site visit is not necessary in this case because the plan submitted shows clear and recent wetland and wetland buffer delineation and there are no buildings or other improvements to view.

Special Exception criteria was discussed.

With no further discussion, the Board addressed the three questions that must be answered to decide whether or not a special exception can be legally granted.

- Is the use one that is ordinarily prohibited in the district?

Boards Vote:

Mr. Downing Yes

Mrs. Bolduc Yes

Mr. Andrew Yes

Mr. Holmes Yes

Mr. Howland Yes

By vote, the Board unanimously agreed that the use, dredging, filling and altering the surface configuration of the land, is ordinarily prohibited in the district without the issuance of a Special Exception.

- Is the use specifically allowed as a special exception under the terms of the ordinance? *Utility rights-of-way are specifically mentioned in the ordinance as a use which qualifies for a Special Exception.*

Boards Vote:

Mr. Downing Yes

Mrs. Bolduc Yes

Mr. Andrew Yes

Mr. Holmes Yes

Mr. Howland Yes

By vote, the Board unanimously agreed that under the terms of the ordinance dredging, filling and altering the surface configuration of the land are specifically allowed as a special exception under the ordinance.

- Are the conditions specified in the ordinance for granting the exception met in this case?

- Condition #1: Is the use essential to the productive use of the land?

Boards Vote:

Mr. Downing Yes

Mrs. Bolduc Yes

Mr. Andrew Yes

Mr. Holmes Yes

Mr. Howland Yes

By vote, the Board unanimously agreed that the use requested would be essential to the productive use of the land.

- Condition #2: Is the use located and constructed as to minimize any detrimental impact upon the wetland and watershed protection area?

Mr. Downing Yes

Mrs. Bolduc Yes

Mr. Andrew Yes

Mr. Holmes Yes

Mr. Howland Yes

By vote, the Board agreed that the proposed use is located and constructed as to minimize any detrimental impact upon the wetland and watershed protection area.

Mr. Andrew made the motion that based on the information presented and on the Boards determination that the exception is allowed by the ordinance and the specific conditions under which the exception may be granted have been met; the Fremont Board of Adjustment grant with conditions, to Public Service Company of New Hampshire (PSNH) the requested Special Exception from the terms of Article IX Section H as set forth in the Town of Fremont Zoning Ordinance to allow wetland and wetland buffer impacts for a thermal uprate project and replace

four (4) pole structures with taller structures within the existing Public Service Company of New Hampshire (PSNH) utility right of way corridor in Fremont, New Hampshire, with impacted properties located at Map 2 Lots 22-38, 70, 156-1-23-1, 156-2, and 156-2-3.

Conditions:

- This approval is subject to all other Local, State or Federal permits and approvals that may be required and does not relieve the applicant from the obligation to obtain such other permits.
- This special exception shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such special exception shall expire within 6 months after the resolution of a planning application filed in reliance upon the special exception. (per NH RSA 674:33, IV)
- That payment for all invoices for services rendered from the Rockingham County Conservation District, and any other professional services requested, be submitted by the owner no later than 30 days following the receipt of such invoice.
- RSA 676:17 shall apply.

Motion seconded by Mr. Downing with favorable vote.

Mr. Andrew stated that if a special exception is listed in the ordinance and the conditions are met, the Board cannot legally refuse to grant the Special Exception.

The applicant was advised that there is a thirty (30) day appeal period.

Ms. Trefry will submit the recording fees for PSNH and the notice of decision will be recorded at the Rockingham Registry of Deeds.

At 8:15 pm Mrs. Bolduc made the motion to close the public hearing.

Motion seconded by Mr. Downing with unanimous favorable vote.

Case # 014-002
LARS EKENDAHL
Map 2 Lot 70
Magnusson Gravel Pit - Rt 107

Present: Applicants Lars and David Ekendahl, property owner C. L. Magnusson, representing Surveyor Kevin Hatch, Abutters Patricia Kelly, Robert Bartley, Realtors Bill Bartlett and Deb Mullen.

Mr. Andrew opened this Public Hearing at 8:20 p.m.

Mr. Andrew explained the purpose of the Board 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 7:45 pm on Tuesday January 28, 2014 at the Fremont Town Hall, downstairs Land Use meeting room, for applicant Gunstock Laboratories, LLC. Route 107 Map 2 Lot 070, Fremont, NH. The current owner of the property is Magnusson Farm, LLC.

The applicants are seeking a Special Exception per the terms of Article XI Section E-6.1 as set forth in the Town of Fremont Zoning Ordinance to allow operation of a mechanical engineering commercial business at the property at Map 2 Lot 070. This property is located in the Aquifer Protection District and the Commercial Highway District.

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.

Mr. Andrew stated that this hearing was noticed on January 16, 2014 at the Fremont Post Office and Fremont Town Hall and in the January 17, 2014 edition of the Manchester Union Leader Newspaper. The applicant and all abutters were notified via certified mail on January 17, 2014 and all returns have been received except for applicant Ekendahl and abutters Ackerman and Lagasse. The application consisted of a cover letter of intent, six sets of plans, a current abutters list, proper check amount and a January 14, 2014 letter of denial/referral from the Fremont Building Official/Code Enforcement Officer.

Mr. Andrew then read Article XI Section 6-1 of the Fremont Zoning Ordinance as follows.

6. Special Exceptions

The following uses are permitted as Special Exceptions (in compliance with Town Zoning Ordinance):

1. Industrial and commercial uses not otherwise prohibited in Section E.4. of this A.P.O.

The Board of Adjustment may grant a special exception for those uses listed above only after written findings of fact are made that all of the following are true:

- the proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants;*

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- ❑ *the proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer;*
- ❑ *the proposed use will discharge no waste water on site other than that typically discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as herein defined;*
- ❑ *the proposed use complies with all other applicable sections of this Article.*

A written finding of fact that all of the above are true was prepared and submitted by Kevin Hatch, LLS. His findings are as follows.

- 1. The proposed use will not produce any pollutants that could potentially reach the groundwater. Thus use is for dry mechanical equipment to stored and worked on inside a building with a concrete slab and no floor drains. There will be no storage or any use of any harmful chemicals other than normal household cleaners. The site grading will not allow untreated surface runoff to reach the adjacent wetland, and the daily vehicle traffic will be limited to a few passenger vehicles and an occasional truck delivery. This use will be similar to a residential home on the 30 acre lot.*
- 2. The proposed use will utilize a drilled bedrock well, and will be limited in use. Similar to a small residential home.*
- 3. A septic system designed for up to 10 employees and a kitchen sink will be the only discharge from this proposed use. This is smaller than most single family homes. There are no hazardous or toxic chemicals to be stored, used or discharged on this site.*
- 4. This proposal requires no other waivers or variances from this or any other zoning article.*

Mr. Hatch conducted a presentation showing an enlarged map of the area of Map 2 Lot 070. He explained that the Ekendahs's are here for Special Exception for permission to use the land for a commercial use. After this they will be doing Site Plan Review with the Planning Board for the details of their business (Gunstock Laboratories, LLC). Mr. Hatch stated that this is a good location for this a low impact use for this business that repairs machinery for the automotive industry. The company brings a machine into their building where it will stay for some weeks or months while it is being worked on to be retrofitted to create new interior auto parts as the industry demands. This is a dry shop where there are no harsh chemicals used. This business does not impact the land or abutters.

Special Exception criteria was discussed. The three questions that must be answered to decide whether or not a special exception can be legally granted are:

1. Is the use one that is ordinarily prohibited in the district?
2. Is the use specifically allowed as a special exception under the terms of the ordinance?
3. Are the conditions specified in the ordinance for granting the exception met in this case?
Condition #1: Is the use essential to the productive use of the land?
Condition #2: Is the use located and constructed as to minimize any detrimental impact upon the wetland and watershed protection area?

Mr. Hatch submitted an additional application form attesting to compliance to the 3 Special Exception criteria.

Criteria 1: This use is not specifically allowed under Article XI, E.6.1

Criteria 2: Article XI, E.6.1 specifically permits commercial and industrial uses by special exception.

Criteria 3: All 4 of the requirements of the Special Exception have been met.

In his cover submission correspondence Mr. Ekendahl stated that Gunstock Laboratories, LLC is a small family-run engineering company that converts and upgrades thermoforming machines for the automotive industry as required when the industry changes their specification for future production. The machines that they upgrade and convert typically make instrument panels, door panels, consoles and other interior car parts made from thermoplastic. A thermoforming machine consists of infra red ovens, an electrically or pneumatically driven form/press station, vacuum pumps and a variety of tools. Material is heated between upper and lower infra red heater banks and transferred to the form station where sheet stock is drawn onto an aluminum tool with vacuum. It cools off and can be trimmed to desired size.

For now they will need a 4,000 to 5,000 sq ft building, and are projecting they may need a second building of the same size in two or three years. There are currently 5 workers and the septic system would be designed for 10 people during business hours.

Information on the business:

- Working hours are projected to be 7am – 5 pm (sometimes to 7 pm) Monday – Friday and 8am – 12pm on Saturday.
- There would be no noise generated that could be heard from outside of the building.
- There are no chemicals or combustibles used in the machines or in the upgrading or conversion process. They will use a welder once or twice a week and they will have CO2 and powder extinguishers at the place of welding and at all doors. Trash generated can be taken out or curbside pickup, or by a contracted hauling company.
- Fork-lifts will occasionally be used indoors and outdoors for lifting assemblies and loading/unloading assemblies.
- Parking/vehicles: projected 2 to 8 cars at the building during the first 3 years.
- Several temporary storage containers will be necessary on site prior to and during construction.

Comment sheets were received from the following: comments in *italics*.

Building Official: *No comment.*

Health Officer: *Only the obvious concerns of the Aquifer.*

Police Chief: *No comment/no Concerns.*

Fire Chief: *What kinds of chemicals would they have onsite?*

Mrs. Bolduc explained that the Conservation Commission has not met since the comment sheets were issued.

The Board also received a January 24, 2014 letter from abutter Betty Metevier with questions relative to whether Gunstock Laboratories business would create smoke, smells, noise, harm to her water line and septic system. She also stated she would like to go through the building when it is finished and be allowed to ask questions.

In answer to a question by an abutter Mr. Ekendahl said he plans on using a closed loop control system and there will be a drilled well for drinking water.

In answer to a question by Mrs. Kelly relative to vehicle entry from Rt 107, Mr. Hatch said they will probably need to widen their driveway access that is by her house. Mr. Ekendahl said there would be a single-lane drive and Mr. Hatch said the entrance will be designed for safe entry and will have a curve at the entrance so that there will be low impact entering and exiting the site.

Mr. Andrew asked if the public had any further comments either in support or in non-support of the Special Exception request. With no further questions or comments by the public Mr. Andrew closed the meeting to the public.

A site visit was discussed. Mr. Howland said where this is an empty snow covered parcel with no improvements there would be nothing to see. It was noted that this is a request for Special Exception for property use and there are no wetland issues. The Members collectively agreed that for this case a site visit is not necessary.

The Special Exception criteria was discussed.

The Board collectively agreed that the commercial use is not otherwise prohibited in Section E.4. of this Aquifer Protection Ordinance.

With no further discussion, the Board addressed the three questions that must be answered to decide whether or not a special exception can be legally granted.

The following is Ekendahl's explanation (in italics) and the Board's vote on the three criteria of a special exception:

Is the use one that is ordinarily prohibited in the district?

This use is not specifically allowed under Article XI, E.6.1. This use produces no waste that could enter the groundwater except for a septic system the size of a residential home.

The Board agreed that this is a commercial use that is ordinarily prohibited without Special Exception, but it is not prohibited in Article XI, Section E.4.

Boards vote:

Mr. Andrew yes

Mr. Downing yes

Mr. Howland yes

Mr. Holmes yes

Mrs. Bolduc yes

Is the use specifically allowed as a special exception under the terms of the ordinance?

Article XI, E.6.1 specifically permits commercial and industrial uses by special exception.

This use has a low water consumption and will not alter the existing groundwater quality or quantity.

The Board agreed that the commercial use is specifically allowed as a special exception under the terms of the ordinance.

Board's vote:

Mr. Andrew *yes*
Mr. Downing *yes*
Mr. Howland *yes*
Mr. Holmes *yes*
Mrs. Bolduc *yes*

Are the conditions specified in the ordinance for granting the exception met in the particular case? *All 4 of the requirements of the Special Exception have been met. There will be no onsite storage of toxic or hazardous waste with this use. This proposal meets all other Zoning requirements.*

The Board agreed that the conditions specified in the ordinance are met because a commercial use is specifically allowed by the ordinance.

Board's vote.

Mr. Andrew *yes*
Mr. Downing *yes*
Mr. Howland *yes*
Mr. Holmes *yes*
Mrs. Bolduc *yes*

Mr. Downing made the motion that based on the information presented and the Board's finding and vote on the three criteria for a Special Exception, the Fremont Zoning Board of Adjustment grant, with conditions, the requested Special Exception from the terms of Article XI Section E-6.1 as set forth in the Town of Fremont Zoning Ordinance to allow Gunstock Laboratories, LLC. to operate their mechanical engineering commercial business at the property at Route 107, Map 2 Lot 070 which is in the Aquifer Protection District. The current owner of the property is Magnusson Farm, LLC.

Conditions:

- This permit does not relieve the applicant from the obligation to obtain other local, state or federal permits that may be required.
- This special exception shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such special exception shall expire within 6 months after the resolution of a planning application filed in reliance upon the special exception. (per NH RSA 674:33, IV)
- All subsequent conveyances of this property shall include a reference to this recorded decision on the deeds.
- NH RSA 676:17 shall apply.

Motion seconded by Mr. Howland with unanimous favorable vote.

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Mr. Andrew declared the Special Exception to Article XI Section E-6-1 of the Fremont Zoning Ordinance granted for Gunstock Laboratories, LLC.

The applicant was advised that there is a thirty (30) day appeal period.

Mr. Andrew also stated that the notice of decision of this action will be recorded at the Rockingham Registry of Deeds and will be referenced to the property deed.

The applicant submitted payment for the recording fees.

At 9:05 pm Mr. Downing made the motion to close this Public Hearing.
Motion seconded by Mr. Howland with unanimous favorable vote.

CORRESPONDENCE

There was no incoming correspondence received.

At 9:10 pm Mr. Downing made the motion to adjourn.
Motion seconded by Mr. Howland with unanimous favorable vote.

Next meeting: scheduled for February 25, 2014.

Respectfully submitted,

Meredith Bolduc,
Land Use AA/recording secretary