



Fremont Board of Adjustment
April 28, 2015
Meeting Minutes

Members present: Chairman Doug Andrew, Members John (Jack) Downing, Dennis Howland, Alt Neil Janvrin and Alt/recording Secretary Meredith Bolduc.

Mr. Andrew opened the meeting at 7:05 pm.

At the November 18, 2014 meeting Mr. Andrew re-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.

Mr. Andrew designated Alternate Neil Janvrin 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.

MINUTES

Mr. Downing made the motion to accept the minutes of the March 24, 2015 meeting as written. Motion seconded by Mr. Howland with unanimous favorable vote except for Mr. Janvrin who abstained as he was not a member for that meeting.

Case #015-002
Anne Sloan
300 Main Street
Map 3 Lot 032

Present: Owner Anne Sloan, Attorney Eric Maher, Maria & William Knee.

Mr. Andrew opened this Public Hearing at 7:07 pm and stated that this is a continuation of the March 24, 2015 portion of this Public Hearing and the April 9, 2015 site visit.

SITE VISIT:

Mr. Andrew stated that at 6:00 pm on April 9, 2015 the ZBA conducted a duly noticed site visit at 300 Main Street. Present were owner Anne Sloan, ZBA Chairman Douglas Andrew, ZBA Members Jack Downing and Dennis Howland, Alt Meredith Bolduc, Neil Janvrin, Building Official/Code Enforcement Officer Bob Meade, Maria Knee and Bill Knee. The group viewed the property and buildings thereon, well, septic area, parking locations, distance to the street property line.

Mrs. Sloan said the Fire Marshall had them use fire retardant paint on the ceiling of the basement unit that became part of the school that occupied the main floor of the building and was used as an additional exit.

It was found that the basement has recently been leased and Mrs. Sloan said there are tenants occupying that level without an occupancy permit.

The group finished the site visit and left the premise at 6:15 pm.

Mr. Andrew explained the purpose of the Board. He explained that a Variance is a waiver or relaxation of a particular requirement of an ordinance when strict enforcement would cause undue hardship because of circumstances unique to the property. There are five conditions which must be met in order for a Variance to be granted including:

- granting the variance would not be contrary to the public interest
- the use is not contrary to the spirit of the ordinance
- granting the variance would do substantial justice
- the proposed use would not diminish surrounding property values
- literal enforcement of the Ordinance would result in unnecessary hardship to the owner

Mr. Andrew reiterated that Mrs. Sloan is seeking Variances from the following Articles/sections of the Fremont Zoning Ordinance in order to change the use of her 300 Main Street property from mixed use that includes a preschool and a single family dwelling unit to multi-family (3-family):

- *Article IV Section 1 – Setback requirement*
65' required: Mr. Maher said there is approximately 30' from pavement of Rt 107 to the front edge of the porch so it is about 17' to the edge of the street right-of-way.
- *Article IV Section 2 – Frontage requirement*
260' required: lot has 67'
- *Article IV Section 5 – no more than 30% lot occupied by buildings, parking areas, driveways, septic systems and associated leaching fields.* Mrs. Sloan and Mr. Knee said the lot is approximately 40% occupied.
- *Article XI Section E.1 – Lot size requirement*
4.2 acres is required; lot has 0.34 acres
- *Article XI Section E.3 – 10% of the lot may be impervious surface.*
Mr. Maher said approximately 33% of the lot has impervious surface.

A comment sheet was received from the Conservation Commission (comments in italics)
The Conservation Commission has reviewed the request and map relative to any surrounding wetlands and aquifer protection district. The property conversion as described above is not within any wetland areas or relevant buffer and does not appear to have any potential impact on aquifer protection district given the overall reduction in septic use.

The Board reviewed the hand drawn plan of the 10,890 sf parcel (67' x 221'), dated September 17, 2014, that Mrs. Sloan submitted with the application. The plan showed the locations of the existing house, garage, well, septic and 4 parking spaces. Mrs. Sloan wishes to return the use of the building to its pre-existing nonconforming use as a three-family dwelling.

Mr. Andrew read the letter of denial from Building Official/Code Enforcement Officer Bob Meade. The letter cites building codes and several zoning articles relative to non-conforming uses and multi-family dwellings and states in part *“This is in response to your request to bring back the bottom floor of this old historic building (once the post office) to being an apartment again. Once the use is discontinued for more than a year then the status of an existing use for an old nonconforming lot is no more. This use stopped approximately 26 years ago and has been used by the preschool/kindergarten above.”*

Mr. Andrew read the five conditions of a Variance with the applicants written statements that were submitted with the application and stated at this hearing. These statements are the applicant's submission for each of the 5 variance requests.
(Applicant's answers are in italics)

1. Granting the variance would not be contrary to the public interest because:
The use as a multi-family dwelling will be far less intense than the use of a day care facility which has the capacity to care for up to 75 children with 5 staff people over the course of a typical the day.
2. The use is not contrary to the spirit of the ordinance because:
The use is consistent with the spirit of the ordinance. The applicant does not propose any exterior changes to the property and it is consistent with the neighborhood which is scattered with dwellings that accommodate more than one dwelling unit. The location of the building is in an old town center which has everything ...the spirit of the ordinance is observed.
3. Granting the Variance would do substantial justice because:
*Justice here would be to allow this property to revert back to a 3-family.
The variance will do no harm to the public at large. Not granting the variance will create a financial hardship on the applicant as the dwelling is too large to accommodate a single family use in this neighborhood.*
4. The proposed use would not diminish surrounding property values because:
It would be better for surrounding properties as apartment house rather than a school. Given the existing conditions of the property and existing surrounding uses, there will be no recognizable change in the property and therefore there will be no diminution in the values of surrounding properties.
5. Literal enforcement of the Ordinance would result in unnecessary hardship to the owner.

Because of special conditions of the property that distinguish it from other properties in the area: *The condition of the property is its permitted use as a school.*

(A)

(i) There is no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of the provision to the property:

There is no risk to the town by allowing the house to revert to a 3-family property.

The general public purpose of the ordinance is to “promote the health, safety, convenience and general welfare of the Town of Fremont and to secure efficiency and economy in the process of developing the Town and keeping it an attractive place in which to live” the applicant proposes no significant changes to the exterior of the property, keeping with the historic nature of this area of Town, and there will be no risk to the health, safety, convenience and general welfare of the Town by granting the variance. Granting this variance will allow the property to revert to its historic use in the center of Town and will not change the nature of the neighborhood.

and

(ii) The proposed use is a reasonable one.

The property is an existing lot of record that has historically been used for multi-family use or a mixed residential/commercial use. The property has never been used as a single family home and it was not constructed to accommodate single family use. It is unreasonable that this property be forced to single family use where that has never been the case and where its historic use has always been as multi-family or mixed use. It is also impractical to maintain the business use of the property where there is little parking to accommodate any type of business use and a fairly new office complex nearby with significant parking and many units of which remain vacant.

Mr. Maher said he believes Mr. Tucker has requested that, to the extent possible, the Board rule on all the requests at once. Mr. Andrew stated that it is the practice of this Board to rule separately on each request.

Mr. Knee said he would like the Board to think about the fact that this property is part of the village area where all of the houses in the area are non-conforming. Mr. Maher said the existing business is a kindergarten which has gone down- hill since public kindergarten came in and that there is another office building close by that still has space available indicating little business incentive.

Mrs. Knee said she owned the kindergarten that occupied 2 of the apartments. She said they never modified the apartment units, there are still kitchens and bathrooms. The kindergarten was considered to be run in an apartment.

Mr. Andrew summarized that Mrs. Sloan has applied for Variances to be allowed to change the

use of her 300 Main Street property from mixed use that includes a preschool and a single family dwelling unit to multi-family (3-family). Those Variance requests include:

- Article IV Section 1 – Setback requirement. The property has 30' from pavement of Rt 107 to the front edge of the porch / approximately 17' to the edge of the street right-of-way. 65' is required.
- Article IV Section 2 – Frontage requirement. The property has 67' of road frontage where 260' is required.
- Article IV Section 5 – The lot is approximately 40% occupied by buildings, parking areas, driveways, septic systems and associated leaching fields where no more than 30% is allowed.
- Article XI Section E.1 – Lot size requirement. The lot has 0.34 acres where 4.2 acres is required.
- Article XI Section E.3 – Approximately 33% of the lot has impervious surface where no more than 10% is allowed.

In this cover letter Mr. Tucker explained that the history of the building at 300 Main Street is that some levels of the have been used for many purposes including a three-family residence, the Town Post Office, various retail shops, pool hall, barber shop. In 1983 the lower level of the building was converted to a kindergarten and in 1986 the street level of the building was added to the kindergarten. There remains an apartment in the upper level of the building.

Mr. Andrew asked if anyone had any more questions or statements from those present. With no additional statements Mr. Andrew closed this portion of the Hearing to the public and the Board began their discussion and formal deliberations.

Mr. Howland said what triggered the need for a variance is a change in use from mixed use (1 residence plus business 1 business in the form of a kindergarten) to multi-units apartments (3 residential units). It was noted that 2 of the units were used for the kindergarten and not used for residences.

Mr. Janvrin voiced concerns relative parking. He noted that vehicle parking is in the front of the building and one of the parking spaces is not long enough for a standard parking space. That vehicle and at least 2 others would be backing directly out onto Rt 107 which he considered a safety hazard. Mr. Downing said that issue would be addressed by the Planning Board through Site Plan Review if the Variances are granted.

The Board then considered the Variance requests.

Variance request #1: Article IV Section 1 – Setback requirement

65' required – property has 17' from the house to the street right of way of Rt 107 and 30' to the edge of pavement.

1. Granting the variance would not be contrary to the public interest:

Board's vote:

Mrs. Bolduc - no because parking with a 17' distance to the street right-of-way and vehicles backing out onto the street would be a threat to public safety.

Mr. Downing - no because parking is a safety issue.

Mr. Howland - no because parking with a 17' distance to the street would be a safety.

Mr. Andrew - yes. He has no problem with the setback.

Mr. Janvrin - no because the setback and parking would be a threat to public safety.

Mr. Andrew declared that by vote, the majority of the Board Members agreed that granting of the Variance would threaten public health, safety or welfare, or otherwise injure "public rights" therefore would be contrary to the public interest.

2. The use is not contrary to the spirit of the ordinance:

Board's vote:

Mr. Andrew - no because the spirit of the ordinance is to not have buildings too close to the road for safety reasons.

Mr. Downing - no – Agree with Mr. Andrew

Mrs. Bolduc - no – Agree with Mr. Andrew

Mr. Howland - no – Agree with Mr. Andrew

Mr. Janvrin - no – Agree with Mr. Andrew

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would threaten public health, safety or welfare, or otherwise injure "public rights" therefore would be contrary to the spirit of the ordinance.

3. Granting the Variance would do substantial justice;

Board's vote:

Mr. Downing - no because the parking issue is a safety threat.

Mrs. Bolduc - yes because the benefit to the applicant is not outweighed by harm to the general public.

Mr. Howland - yes because the benefit to the applicant is not outweighed by harm to the general public.

Mr. Andrew -yes

Mr. Janvrin - no – agrees that the parking issue is a safety threat.

Mr. Andrew declared that by vote, the majority the Board Members agreed that granting of the Variance would do substantial justice in that the benefit to the owner is not outweighed by harm to the general public or to other individuals.

4. The proposed use would not diminish surrounding property values:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Approved May 26, 2015

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not diminish the values of surrounding properties.

5. Literal enforcement of the Ordinance would result in unnecessary hardship to the owner.

A. Because of special conditions of the property that distinguish it from other properties in the area:

i) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of the provision to the property:

There was a conversation relative to hardship. Mr. Howland said he thinks the hardship is if any change other than a school triggers a variance from the setback that would be tying the hands of the property owner. He questioned how fair it is to the owner if the only use of the building is a residence and a daycare without seeking a variance. Mr. Janvrin agreed with Mr. Howland.

Mrs. Bolduc said that all properties in the area are small lots with less than 200' frontage and the houses are set close to the road therefore she could not find a special condition with this property that distinguishes it from other properties in the area, so she sees no hardship.

Mr. Andrew asked what the legal use of the building would be if the daycare were to go away for 1 year (per Article III Section D). Mrs. Bolduc said it would be a single family dwelling, but with approval there are any number of low impact businesses that could be considered if allowed in the district.

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - no because she cannot find a special condition with the property that distinguishes it from surrounding properties.

Mr. Howland - no because the surrounding properties have the same density issues.

Mr. Andrew - yes because he does see a hardship in that this is a large historic building that has the room to be a 3-family.

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the majority of the Board Members agreed that; 1) The special condition of the property that distinguishes it from other properties in the area is that this is a large historic building that has the room to be a 3-family; and 2) restrictions if applied to the property do serve that purpose in a fair and substantial way.

and

ii) The proposed use is a reasonable one.

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes – the building itself is large enough for 3 families.

Approved May 26, 2015

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board agreed that the request to convert the building into a multi-family dwelling from a mixed use building not unreasonable.

Mr. Downing made the motion that, based on the information presented and the results of the Boards vote on the five conditions of a Variance, the Fremont Zoning Board of Adjustment **deny** a Variance from the terms of Article IV Section 1 of the Fremont Zoning Ordinance to Anne Sloan to allow the conversion of her building at 300 Main Street, Map 3 Lot 032, from a mixed-use building to a 3-family multi-dwelling use with the building setback less than sixty five (65) feet from the street property line of Rt 107.

Motion seconded by Mr. Janvrin with unanimous favorable vote.

Mr. Andrew declared the requested Variance from the terms of Article IV Section 1 of the Fremont Zoning Ordinance by Anne Sloan denied for her property located at 300 Main Street, Map 3 Lot 032.

Variance request #2: Article IV Section 2 – Frontage requirement

260' required: lot has 67'

1. Granting the variance would not be contrary to the public interest:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not alter the character of the neighborhood, threaten public health, safety or welfare, or otherwise injure "public rights" therefore would not be contrary to the public interest.

2. The use is not contrary to the spirit of the ordinance:

Board's vote:

Mr. Downing - yes

Mr. Howland - no because the spirit of the ordinance is to control crowding and density and the proposed use is a higher density that what is there now.

Mrs. Bolduc - no because while the proposed use may not alter the character of the neighborhood she agrees that the spirit of the ordinance is to control crowding and density and the proposed use is a higher density that what is there now.

Mr. Andrew - yes

Mr. Janvrin - no because he agrees with the same rational as Mr. Howland.

Mr. Andrew declared that by vote, the majority of the Board Members agreed that granting of the Variance would threaten public health, safety or welfare, or otherwise injure “public rights” therefore would be contrary to the spirit of the ordinance.

3. Granting the Variance would do substantial justice;

Board’s vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would do substantial justice in that the benefit to the owner is not outweighed by harm to the general public or to other individuals.

4. The proposed use would not diminish surrounding property values:

Board’s vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not diminish the values of surrounding properties.

5. Literal enforcement of the Ordinance would result in unnecessary hardship to the owner.

A. Because of special conditions of the property that distinguish it from other properties in the area:

i) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of the provision to the property:

Board’s vote:

Mr. Downing - yes

Mrs. Bolduc - no because she cannot find a special condition with the property that distinguishes it from surrounding properties.

Mr. Howland - no because the surrounding properties have the same issues.

Mr. Andrew - yes because he does see a hardship - this is a large historic building that has the room to be a 3-family.

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the majority of the Board Members agreed that; 1) The special condition of the property that distinguishes it from other properties in the area is that this is a

large historic building that has the room to be a 3-family and 2) restrictions if applied to the property do not serve that purpose in a fair and substantial way.

and

ii) The proposed use is a reasonable one.

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin -yes

Mr. Andrew declared that by vote, the Board collectively agreed that the request to convert the building into a multi-family dwelling from a mixed use building is not unreasonable.

Mr. Howland made the motion that, based on the information presented and the results of the Boards vote on the five conditions of a Variance, the Fremont Zoning Board of Adjustment **deny** a Variance from the terms of Article IV Section 2 of the Fremont Zoning Ordinance to Anne Sloan to allow the conversion of her building at 300 Main Street, Map 3 Lot 032, from a mixed-use building to a 3-family multi-dwelling use with the lot frontage of less than two hundred and sixty (260) feet on a federal, state or town highway.

Motion seconded by Mr. Downing with unanimous favorable vote.

Mr. Andrew declared Variance from the terms of Article IV Section 2 of the Fremont Zoning Ordinance by Anne Sloan denied for her property located at 300 Main Street, Map 3 Lot 032.

Variance request #3: Article IV Section 5 – 30% lot occupied by buildings, parking areas, driveways, septic systems and associated leaching fields.

1. Granting the variance would not be contrary to the public interest:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not alter the character of the neighborhood, threaten public health, safety or welfare, or otherwise injure "public rights" therefore would not be contrary to the public interest.

2. The use is not contrary to the spirit of the ordinance:

Approved May 26, 2015

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not alter the character of the neighborhood, threaten public health, safety or welfare, or otherwise injure "public rights" therefore would not be contrary to the spirit of the ordinance.

3. Granting the Variance would do substantial justice;

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would do substantial justice in that the benefit to the owner is not outweighed by harm to the general public or to other individuals.

4. The proposed use would not diminish surrounding property values:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not diminish the values of surrounding properties.

5. Literal enforcement of the Ordinance would result in unnecessary hardship to the owner.

A. Because of special conditions of the property that distinguish it from other properties in the area:

i) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of the provision to the property: Board's vote:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - no because she cannot find a special condition with the property that distinguishes it from surrounding properties.

Approved May 26, 2015

Mr. Howland - yes

Mr. Andrew - yes because he does see a hardship

Mr. Janvrin - yes

Mr. Andrew declared that be vote, the majority of the Board Members agreed that; 1) The special condition of the property that distinguishes it from other properties in the area is the things that are already existing on the property and 2) restrictions if applied to the property do serve that purpose in a fair and substantial way.

and

ii) The proposed use is a reasonable one.

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board agreed that the request to convert the building into a multi-family dwelling from a mixed use building is not unreasonable.

Mr. Howland made the motion that, based on the information presented and the results of the Boards vote on the five conditions of a Variance, the Fremont Zoning Board of Adjustment **grant** a Variance from the terms of Article IV Section 5 of the Fremont Zoning Ordinance to Anne Sloan to allow the conversion of her building at 300 Main Street, Map 3 Lot 032, from a mixed-use building to a 3-family multi-dwelling use with more than 30% of the lot occupied by buildings, parking areas, driveways, septic systems and associated leaching fields with the following conditions:

1. The lot shall not be occupied more than 40 % by buildings, parking areas, driveways, septic systems and associated leaching fields.
2. This decision shall be recorded with reference to the current deed and shall be included in any subsequent deeds to this parcel or subdivision of this parcel.
3. RSA 676:17 shall apply.

Motion seconded by Mr. Janvrin with unanimous favorable vote.

Mr. Andrew declared Variance from the terms of Article IV Section 5 of the Fremont Zoning Ordinance by Anne Sloan granted for her property located at 300 Main Street, Map 3 Lot 032.

*Variance request #4: Article XI Section E.1 – Lot size requirement
4.2 acres is required; lot has 0.34 acres*

1. Granting the variance would not be contrary to the public interest:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Approved May 26, 2015

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not alter the character of the neighborhood, threaten public health, safety or welfare, or otherwise injure “public rights” therefore would not be contrary to the public interest.

2. The use is not contrary to the spirit of the ordinance:

Board’s vote:

Mr. Downing - yes

Mrs. Bolduc - no because the spirit of the ordinance is to control density and crowding and this proposed use would not be in keeping with that.

Mr. Howland - no because the spirit of the ordinance is to control crowding and density and the proposed use is a higher density that what is there now.

Mr. Andrew - yes

Mr. Janvrin - no – agrees with Mr. Howland relative to density.

Mr. Andrew declared that by vote, the majority of the Board Members agreed that granting of the Variance would threaten public health, safety or welfare, or otherwise injure “public rights” therefore would be contrary to the spirit of the ordinance.

3. Granting the Variance would do substantial justice;

Board’s vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not cause harm to the general public or to other individuals therefore it would do substantial justice in that the benefit to the owner is not outweighed by harm to the general public or to other individuals.

4. The proposed use would not diminish surrounding property values:

Board’s vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not diminish the values of surrounding properties.

5. Literal enforcement of the Ordinance would result in unnecessary hardship to the owner.

A. Because of special conditions of the property that distinguish it from other properties in the area:

i) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of the provision to the property: Board's vote:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - no because she cannot find a special condition with the property that distinguishes it from surrounding properties.

Mr. Howland - no because he finds no hardship with the property.

Mr. Andrew - yes because he does see a hardship in that that this is a large building on a small lot.

Mr. Janvrin - yes

Mr. Andrew declared that be vote, the majority of the Board Members agreed that; 1) The special condition of the property that distinguishes it from other properties in the area is that this is a large building on a small lot and 2) restrictions if applied to the property do not serve that purpose in a fair and substantial way.

and

ii) The proposed use is a reasonable one.

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board agreed that the request to convert the building into a multi-family dwelling from a mixed use building is not unreasonable.

Mr. Downing made the motion that, based on the information presented and the results of the Boards vote on the five conditions of a Variance, the Fremont Zoning Board of Adjustment **deny** a Variance from the terms of Article XI Section E.1 of the Fremont Zoning Ordinance to Anne Sloan to allow the conversion of her building at 300 Main Street, Map 3 Lot 032, from a mixed-use building to a 3-family multi-dwelling use with the building lot less than the required four and two tenths (4.2) acres of property.

Motion seconded by Mr. Howland with favorable vote.

Mr. Andrew declared Variance from the terms of Article XI Section E.1 of the Fremont Zoning Ordinance for Anne Sloan denied for her property located at 300 Main Street, Map 3 Lot 032.

Variance request #5: Article XI Section E.3 – 10% if the lot may be impervious surface. Lot has approximately 33% impervious surface.

1. Granting the variance would not be contrary to the public interest:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not alter the character of the neighborhood, threaten public health, safety or welfare, or otherwise injure "public rights" therefore would not be contrary to the public interest.

2. The use is not contrary to the spirit of the ordinance:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not alter the character of the neighborhood, threaten public health, safety or welfare, or otherwise injure "public rights" therefore would not be contrary to the spirit of the ordinance.

3. Granting the Variance would do substantial justice;

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not cause harm to the general public or to other individuals therefore it would do substantial justice in that the benefit to the owner.

4. The proposed use would not diminish surrounding property values:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board Members collectively agreed that granting of the Variance would not diminish the values of surrounding properties.

5. Literal enforcement of the Ordinance would result in unnecessary hardship to the owner.

A. Because of special conditions of the property that distinguish it from other properties in the area:

i) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of the provision to the property:

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - no because she cannot find a special condition with the property that distinguishes it from surrounding properties.

Mr. Howland - yes

Mr. Andrew - yes – this is a large building on a small lot.

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the majority of the Board Members agreed that; 1) The special condition of the property that distinguishes it from other properties in the area is that it is a large building on a small lot and 2) restrictions if applied to the property do not serve that purpose in a fair and substantial way.

and

ii) The proposed use is a reasonable one.

Board's vote:

Mr. Downing - yes

Mrs. Bolduc - yes

Mr. Howland - yes

Mr. Andrew - yes

Mr. Janvrin - yes

Mr. Andrew declared that by vote, the Board agreed that the request to convert the building into a multi-family dwelling from a mixed use building is not unreasonable.

Mr. Downing made the motion that, based on the information presented and the results of the Boards vote on the five conditions of a Variance, the Fremont Zoning Board of Adjustment **grant** a Variance from the terms of Article XI Section E.3 of the Fremont Zoning Ordinance to Anne Sloan to allow the conversion of her building at 300 Main Street, Map 3 Lot 032, from a mixed-use building to a 3-family multi-dwelling use with more than ten (10) percent of the lot covered with impervious surface with the following conditions:

1. No more than thirty three (33%) percent of the lot shall be covered with impervious surface.
2. This decision shall be recorded with reference to the current deed and shall be included in any subsequent deeds to this parcel or subdivision of this parcel.
3. RSA 676:17 shall apply.

Motion seconded by Mr. Howland with unanimous favorable vote.

Mr. Andrew declared Variance from the terms of Article XI Section E.3 of the Fremont Zoning Ordinance granted with conditions for Mrs. Sloan's property located at 300 Main Street, Map 3 Lot 032.

Mr. Andrew summarized the results of the Boards decisions by vote on the 5 Variance requests from the Fremont Zoning Ordinance as follows:

- Variance request #1 denied; Article IV Section 1
- Variance request #2 denied; Article IV Section 2
- Variance request #3 granted; Article IV Section 5
- Variance request #4 denied; Article XI Section E.1
- Variance request #5 granted; Article XI Section E.3

Mrs. Bolduc 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.

Mr. Andrew made the motion to close this public hearing at 9:25 pm.
Motion seconded by Mr. Downing with unanimous favorable vote.

CORRESPONDENCE

There was no incoming correspondence received.

At 9:35 pm Mr. Downing made the motion to adjourn.
Motion seconded by Mr. Howland with unanimous favorable vote.

Next meeting: scheduled for May 26, 2015.

Respectfully submitted,

Meredith Bolduc,
Land Use AA/Recording Secretary