

Members present: Chairman Doug Andrew, Members John (Jack) Downing, Dennis Howland, Alt Neal Janvrin, and Recording Secretary/Land Use Administrative Assistant Casey Wolfe.

The meeting was live broadcast on FCTV 22 and will be rebroadcast throughout the week.

Chairman Andrew opened the meeting at 7:00 pm.

MINUTES

Mr. Howland made the motion to accept the minutes of the December 15, 2015 meeting. Motion seconded by Mr. Janvrin with unanimous favorable vote 4-0.

PUBLIC HEARINGS

Case #016-001 / Variance
Map 06-011.001.022
Nadine Harkabus

Present: Applicant Nadine Harkabus; and Members of the Public

Chairman Andrew opened the Public Hearing at 7:04 pm and read the Public Notice of the 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 7:00 pm on Tuesday March 22, 2016 in the basement meeting room at the Fremont Town Hall, 295 Main Street, Fremont NH, concerning a Variance to the terms of Article IV Section 1 as it relates to Section 9 of the Fremont Zoning Ordinance to permit construction of an attached mudroom and one car garage to an existing home, no closer than 17 feet to the westerly side property line on parcel 06-011.001.022, adjacent to lot 06-011.001.021. Said property is owned by Nadine B. Harkabus and is located at 65 Vetter Drive in Fremont NH.

You are invited to attend in person or by counsel or agent. Written comment will be accepted up until the date of the Hearing. A copy of the plan can be viewed at the Fremont Town Hall during regular business hours.

It is noted for the record that certified notices were sent to all abutters on February 29, 2016, and all seven cards have been returned with letters picked up. This hearing was posted on the

Town's website and at Town Buildings on February 25, 2016 and published in the Union Leader on March 7, 2016.

The applicant is seeking a Variance to the terms Article IV Section 1 as it relates to Section 9 of the Fremont Zoning Ordinance to allow construction of an attached mudroom and one car garage onto an existing home at 65 Vetter Drive. The proposed addition is closer than 20 feet to the side property line of parcel 06-011.001.021.

Mr. Andrew read through the Department Plan Comment sheets, received from the following Town Officials (comments in *italics*):

Building/Code Enforcement Official/Health Officer: *I have no issues with this request.*

Fire Chief: *I have no problem with this.*

Police Chief: *No issues.*

Road Agent: *No issues! No comments.*

Conservation Commission: *The Conservation Commission has no comment to make regarding the Variance at this time. Based on the plan provided, there are no apparent wetland concerns.*

Board of Selectmen/Town Administrator: *Board of Selectmen reviewed 3/01/2016 and have no concerns.*

Applicant Nadine Harkabus came forward to present her application. She explained she is looking for a 3' variance so that she can put up the proposed garage on the west side of the house (see file).

Application # 016-001 is for a Variance to the Terms of Zoning Article IV Section 1 and 9 to permit the addition to exist within current side and front setback limitations.

Fremont Zoning Ordinance Article IV Section 1 & 9 reads (in part):

ARTICLE IV

Section 1. Any new structure or extension of existing structure intended for any use shall be set back from the street property line at least fifty (50) feet. In the case of multiple family dwelling structures, the set back shall be increased by an additional five (5) feet per family dwelling unit. ie: (50 plus (5 multiplied by the number of family units)). And that any such structure shall be set back from the side and rear lot lines by at least thirty (30) feet except in the case of multiple family dwelling structures, this set back shall be increased by an additional ten (10) feet per family dwelling unit, ie: (thirty (30) plus ten (10) multiplied by the number of family units). **(See also Article IX Section F-4)**

Section 9. Any lot existing at the effective date of this ordinance, lawfully created by deed or recorded plan at the Rockingham County Registry of Deeds, shall be exempt from the lot size, frontage and structure setback standards of this ordinance; provided that each such lot and structure thereon shall comply with the lot size, frontage and structure setback standards in effect at the time of the creation of the lot. Each such lot and structure shall comply with all other provisions of this ordinance.

Provided further that lots existing prior to March 5, 1974 shall be exempt from Article IV, Section 8 provided that they meet the specifications of the New Hampshire Department of Environmental Services, Water Division, Subsurface Bureau and/or its successor for installation of water supply and septic systems.

There was some discussion about the side setback requirement. Mr. Andrew asked the rest of the Board if a site visit was necessary. Mr. Howland felt that this was not necessary for just a 3 foot variance. Mr. Howland had already looked at the site via Google Earth and Mr. Janvrin had already seen the property. There is a line of trees on the relevant property line. Both Mr. Howland and Mr. Janvrin felt satisfied.

Mr. Howland made the motion to vote on each of the supporting facts. Mr. Downing seconded it with all in favor.

Mr. Andrew read through the facts supporting this request from their application paperwork (answers in italics):

1. The variance will not be contrary to the public interest because *neighbors on either side of the proposed addition have trees that will shield them from view of the proposed addition. The proposed addition will not be used for commercial business.*

Board's Vote:

Yes – 4

No – 0

2. The spirit of the Ordinance is observed because *all required permits will be in accordance with the current applicable building codes for the location.*

Board's Vote:

Yes – 4

No – 0

3. Substantial justice is done because *this is a reasonable request for the location. The proposed addition will fit well with the other residential properties nearby.*

Board's Vote:

Yes – 4

No – 0

4. The values of surrounding properties are not diminished because *I feel that this proposed addition will increase this property's value as well as those of the adjacent neighbors.*

Board's Vote:

Yes – 4

No – 0

5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.
- A. For the purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:
- (i) No fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property: N/A
- AND
- (ii) The proposed use is a reasonable one. N/A
- OR
- B. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it: *The proposed addition would not be feasible to locate anywhere else on the property due to location of the well and the septic system.*

Board's Vote:

Yes – 4

No – no

Mr. Howland made a motion to grant Ms. Harkabus the variance. Mr. Downing seconded it with all in favor.

Mr. Howland made a motion to close the public hearing. Mr. Downing seconded this with all in favor.

CORRESPONDENCE

There was no incoming correspondence received.

OTHER BUSINESS

There was some discussion about who should be Chair. It was decided that Mr. Andrew would continue to be Chair. Mr. Howland made the motion to elect Mr. Andrew as Chair. Mr. Downing seconded this with all in favor.

There was some discussion about Zoning Board procedure with Ms. Carlson. Ms. Wolfe will put together a checklist or template for ZBA procedure.

At 7:25 PM Mr. Howland made the motion to adjourn. The motion was seconded by Mr. Janvrin with all in favor.

Next meeting scheduled for April 26th, 2016.

Respectfully submitted,

Casey Wolfe
Land Use Administrative Assistant