

Present: Chairman Doug Andrew, Vice Chairman Dennis Howland, Members Neal Janvrin and Jack Downing, and Recording Secretary Casey Wolfe.

Also present: Richard Hewett, Lisa Darling, and Bill Knee

I. Minutes

Mr. Downing made a motion to accept the minutes of May 24th, 2016. Mr. Howland seconded that motion with all in favor.

II. Public Hearing

Case # 016-002/Variance
Map 2-1.2
Richard Hewitt

Public Notice:

Chairman Andrew 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 August 23, 2016 in the basement meeting room at the Fremont Town Hall, 295 Main Street, Fremont NH, concerning a Variance to the terms of Article IX, Section E of the Fremont Zoning Ordinance to permit construction of a detached garage within the 100' wetland setback on parcel 02-1.2. Said property is owned by Richard Hewitt and Lisa Darling and is located at 29 Scribner Road 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.

Notification Requirements:

The above notice was posted at the Fremont Post Office and the Town Hall on Thursday, August 18th. The applicant and all of the abutters were notified via certified mail on Thursday, August 4th and all returns have been received except for abutter Kelly Marquis. The notice was published in the Manchester Union Leader Newspaper on August 8th.

Contents of Application:

The application consisted of a letter of intent, multiple sets of plans, an architectural rendering, a current abutters list, proper check amount, and a June 7th, 2013 letter of denial/referral from the Fremont Building Official/Code Enforcement Officer.

Zoning Ordinance: Article IX Section E

Uses Permitted: Any of the following uses that do not result in the erection of any dwelling or building in public or private use or alter the surface configuration of the land may be permitted in this district consistent with State and Federal wetland regulations:

1. *Forestry, tree farming, within the limits of RSA 224:44a.*
2. *Agriculture, including grazing, farming, truck gardening, and harvesting of crops, except that mink farms and piggeries shall not be included in this district.*
3. *Drainage ways, streams, creeks, or other paths of normal run-off water.*
4. *Water impoundments and well supplies.*
5. *Wildlife refuge.*
6. *Open space as may be permitted by subdivision regulations and other sections of this ordinance.*

Facts supporting this request from application (answers in italics):

1. The variance will not be contrary to the public interest because *the structure is for personal storage and presents no threat to the public health or the safety and well-being of any neighbors.*
2. The spirit of the ordinance is observed because *the proposed structure would not be visible by any neighbors or impact them in any way.*
3. Substantial justice is done because *this location is the only accessible site on the property and would cause no harm to the general public or hinder any right-of-way.*
4. The values of surrounding properties are not diminished because *the addition of the proposed structure to the property will increase its value and there by positively impact the surrounding property values.*
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: *because of the setbacks (Old Scribner Road) and seasonal wetland location this is the only accessible location on the property to build.*

AND

- (ii) The proposed use is a reasonable one. *The structure would be used for personal storage/garage purposes.*

Department Plan Comments:

Code Enforcement Officer: *I did not receive said drawings. Where the denial is from 2013 my concerns would be the new location and just how far into the wetland buffer? Would recommend another site walk though this is the worst time of year to view wetlands.*

Police Chief: *No issues from P.D.*

Office of Selectmen/Town Administrator: *From BOS minutes: All set with garage as proposed as long as all appropriate erosion control measure are taken when garage is constructed.*

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

Town Historian: *No comment.*

Conservation Commission: *The Conservation Commission does not support the request for a variance. The Commission has noted that the existing driveway has already been placed within the wetland setback and that the proposed garage will further violate the setback. The Commission doesn't understand why the proposed garage can't be located on the opposite side of the driveway thereby eliminating the need for a variance. Further, the Commission doesn't understand why if the proposed garage must be located on the proposed side of the driveway, the proposed garage can't be rotated to maximize its distance from the wetland. Because of these questions the Commission proposes that a site visit be made before any further consideration of the variance request.*

There was some discussion about Old Scribner Road and the possibility of the Town handing the road over to the abutters. Mr. Hewett stated that if that were to happen he would have to get an easement from his neighbors so that he can access his own home. There was also some discussion about putting the garage on the other side of the driveway. Because of the lay of the land, the garage would have to be put within the setback from Old Scribner Road if it were put on the other side of the driveway.

Mr. Howland wanted to look at a wetland map to see if the wetland on Mr. Hewett's property connected to any other bodies of water. He thought that a site walk would be appropriate for this situation. The Board should make sure they are comfortable voting on hardship.

There was also some discussion about the terrain of the property. Mr. Howland wanted to know if there was any opportunity to regrade the land. Mr. Howland explained that the purpose of the buffer is to slow the process down of contamination of the wetland. There was some discussion about structures (such as a berm) that would intercept contaminants. Mr. Knee spoke up to clarify the discussion. Any impervious area (such as a garage) affects wetlands. A secondary item would be a good idea.

Mr. Janvrin made a motion to continue the public hearing to Monday the 29th at 5:30 PM for a site walk at 29 Scribner Road. Mr. Downing seconded that motion with all in favor.

Mr. Hewett and Ms. Darling left at 7:40 PM.

III. Other Business

Ms. Wolfe brought up that there may be a Fremont resident interested in joining the ZBA as a fifth member. Mr. Janvrin stated that this person should contact the Town Administrator to fill out an application. The Board talked about having this person come to a meeting or a site walk before he gets appointed. Ms. Wolfe asked what they were looking for in a ZBA member and Mr. Howland said someone with common sense.

Ms. Wolfe also brought up the possibility to have someone come in from the New Hampshire Municipal Association to give the ZBA members some training. Mr. Janvrin said that they were on Board. Perhaps it would be best to wait for the new member to be appointed before the Board receives any training.

Lastly, Ms. Wolfe asked the Board if they have ever had a case dealing with prime wetlands. The Board was not sure.

IV. Correspondence - none

Mr. Janvrin made a motion to adjourn the meeting at 7:55 PM. Mr. Howland seconded that motion with all in favor.

Respectfully Submitted,

Casey Wolfe
Land Use Assistant/Recording Secretary