

Present: Chair Doug Andrew, Vice Chair Dennis Howland, Member Jack Downing, Member Neal Janvrin, Member Todd O'Malley, and Land Use Administrative Assistant Casey Wolfe

Also Present: Gary Cloutier, Tanice Cloutier, Scott Barthelemy, Charles Bolduc, Carlene Bolduc, Kenn Jones, Brenda Barthelemy, Robert Bean, Margaret Bean, Marc Bernier, Kevin Bolduc, Bonita Freeman, Adam Freeman, and Joe Nichols.

Mr. Andrew opened the meeting at 7:00 pm.

I. Minutes

Mr. Downing made a motion to accept the minutes of December 19, 2017. Mr. O'Malley seconded the motion. The motion passed 5-0-0.

II. New Business

Case # 018-001/Variance

Kevin and Erin Bolduc seek a variance to the terms of Article XII Section 1201.5 of the Fremont Zoning Ordinance to permit the construction of a garage 67.9 feet from a wetland and a shed 37.8 feet from a wetland when a 100-foot setback is normally required at 116 Tavern Road, Map 4 Lot 2.

Joseph Nichols of Beals Associates introduced himself and explained he is representing Kevin and Erin Bolduc for the project. He stated that 116 Tavern Road is in the flexible use residential zone and in the aquifer protection zone as well. His client built the house in 2002. The building inspector at the time did not require the house to meet current zoning standards because the lot was created prior to March 5, 1974 (per Article IX Section 908). However, since then it has been determined that the Water Resource Protection Ordinance (Article XII Section 1201) can still be enforced despite Article IX Section 908. His client got a denial letter from the current building inspector to have a garage and shed within the 100 foot setback from the wetland. Mr. Nichols explained that his client is asking for a variance from Article XII Section 1201.5 so that he can construct a 30 foot by 40 foot garage 67.9 feet from a wetland and a 20 foot by 20 foot shed 37.8 feet from a wetland. Both structures are proposed to be built in the existing driveway. Mr. Nichols explained that both structures are proposed in areas that have already been impacted.

Mr. Nichols explained that the wetland is a small isolated wetland and does not have any surface contact with the prime wetland nearby. The natural tree buffer around this wetland will not be disturbed. With the garage constructed his clients will be able to park their vehicles inside rather than outside on the driveway. He felt that the proposed locations of the garage and shed are optimal because they will be the least impactful to the property. Back in 2002, it was intended for a garage to be built in this location at a future date. Mr. Andrew asked if the wetland was wet all year round. Mr. Nichols said that it is and that it meets the criteria to be a jurisdictional wetland. Mr. Andrew asked if the wetland will remain gravel. Mr. Bolduc stated that for now it will remain gravel, however, in the future they may pave it.

Ms. Wolfe read through the submitted department comments. The Building Inspector wrote, “*No issues with this as seen.*” The Fire Chief wrote, “*I have no issues with this request.*” The Town Historian wrote, “*I see no reason to support this. We have rules like this for a reason that’s why they were enacted – cannot keep making exceptions every time someone wants to do something on property, they knew what the rules were when they bought the property. Especially when it is so close to Spruce Swamp.*” The Police Chief did not have any comments and the Conservation Commission recommended that the Board waits on making a decision until it does a joint site walk with the Commission.

Mr. Nichols stated that because there is currently snow covering the site, he brought in this aerial image so the Board can see the site here at the meeting. He also stated that the wetlands were delineated before the first freeze of the season. Mr. Nichols addressed the Town Historian’s comment by explaining that his client has the hardship that the ordinance was misinterpreted back in 2002 by allowing the home to be constructed in the 100 foot wetland buffer. Mr. Nichols read item number two from the five criteria for a variance in the application, “*The spirit of the ordinance will be observed, as the intent of the ordinance is to preserve undisturbed areas adjacent to wetlands. The buffer area proposed to be built upon is currently driveway and lawn. The buffer is for a small isolated wetland that appears to be an old borrow pit. The natural area that is not disturbed within the buffer is not intended to be impacted during construction, and will remain undisturbed.*”

Mr. Andrew asked if there are any questions from the audience. Ms. Freeman stated that wildlife goes through this wetland area a lot, especially deer. She wanted to know what kind of stuff will be stored in the garage and shed. Mr. Nichols stated that currently the vehicles are parked on the gravel driveway, so when it rains contaminates from the vehicles are absorbed into the ground. If the cars can be parked in a garage then the concrete floor will be able to contain contaminates from polluting the environment. Mr. Nichols turned the easel so that the audience could see the aerial image of the home. He pointed to the isolated wetland and made it clear that they are not asking for a variance from the buffer of the prime wetland nearby. Ms. Freeman asked if there would be annual inspections. Mr. Nichols and Mr. Andrew stated that there would not be any annual inspections. Ms. Howland stated that the property to the south of this lot is owned by the Town and is in conservation.

Ms. Wolfe asked if the Board wants to do a site walk. After some discussion, Mr. Janvrin made a motion to forgo the site walk. Mr. Howland seconded the motion. The motion did not pass. The Board scheduled a site walk for Saturday, January 27th at 9:00 am. Mr. Howland made a motion to continue the hearing to the site walk on January 27th. Mr. Downing seconded the motion. The motion passed 5-0-0. The applicant and the abutters for this application left at 7:18 pm.

Case # 018-002/Variance

Scott and Brenda Barthelemy seek a variance to the terms of Article VII of the Fremont Zoning Ordinance to permit the New Hampshire Renaissance Faire to take place on a residential lot on Martin Road, Map 6 Lot 34.

Scott Barthelemy introduced himself to the Board. He and his wife own the farm on Martin Road. He explained that every year he gets approached by groups that want to hold events on his land. This time, the New Hampshire Renaissance Faire has asked to host an event on his property. He said his farm has land in Epping, Brentwood and Fremont but this event will only take place in Fremont. He said that the parking will be on the same side of the road as the event, so guests will not need to cross the road. He felt the event would be a good fit for them. Marc Bernier introduced himself as the general manager of the New Hampshire Renaissance Faire. He stated that the faire has been held in Kingston on a private property for the past 13 years. He stated that they are a 501(c)(3) registered organization in New Hampshire. They currently donate the proceeds to the NH Foodbank, Rockingham Meals on Wheels, and to the local food bank if there is one. He said the amount donated each year is about \$50,000 to \$60,000.

Mr. Bernier stated that the pervious property served them well but they have outgrown it. He believes that this site in Fremont will be a wonderful place to continue the faire. He is looking to run the faire on the property in a place where you will not even see it from the road. He stated that all of the parking will be on the same side of the road as the faire. Mr. Bernier stated that there is more than ample parking for even their best day. There is twice as much space for parking than what they needed for the busiest day they have ever had. There is no powered music, but there will be a few generators. In the past they have followed the Kingston Fire Department's recommendations for generators and they plan to follow the Fremont Fire Department's recommendations. The generators are to power the food booths. In the past they have put in the amount of portable toilets recommended by the Kingston Planning Board. He made it clear that they are willing to work with the Town and meet all the requirements necessary. He believed the Kingston Police Chief is planning on contacting the Fremont Police Chief to discuss the event. This year will be the 15th year of the event.

On a given day they expect about 2,000 people but they do expect to grow closer to 3,000 people. Total between the two weekends their event still wouldn't be one tenth the size of the grass drags. Robert Bean stated the he owns the property that the event has been using for the last 14 years. They were using a parcel that is about 6 or 7 acres. The problem they have on this property is that they do not have any parking. They have used the property across the street for parking in the past and when they outgrew that property they used the common area in Kingston and bused people back and forth to the site. The event is an extremely low impact to the land. Mr. Bean stated that they strive to make the event family-friendly. They do not allow alcohol or adult themes. This new location would allow them to have everything in one place. Mr. Bernier stated that the local businesses love the faire because it brings in more people to the area. He also stated that about 45% of the tickets sold are for children, so they really are a family-oriented event. Mr. Bean stated that they get guests from all over New England and that New England does have a circuit for Renaissance Fairs. Their faire tends to be the first of the season. The dates for the faire this year will be the 12th and 13th and the 19th and 20th of May. Mr. Janvrin stated that he was a bus driver for one of these events and that they were the greatest bunch of people that he has ever dealt with. He felt that it was a well-run event. Mr. Bernier stated that there will only be tents and no permanent structures.

Ms. Wolfe read the department comments. The Fire Chief wrote, *“I have no issues with this request. Please keep the Fire Department included as the process with permits proceeds.”* The Town Historian wrote, *“This would be a perfect location for such an event. No problem with this from me.”* The Code Enforcement Officer wrote, *“No issues other than what we look for at grass drags – health and safety.”* The Police Chief and the Conservation Commission did not have any comments. There was some discussion about contacting the Health Officer. Mr. Barthelemy requested that this could be approved as an annual event so they don’t have to go through this process every year. Mr. Andrew asked what ordinance this was a variance request from. Ms. Wolfe explained that the zoning ordinance does not address the residential district. The use table does not list any uses allowed in the residential district. Because the ordinance does not list this use as a permitted one in this district, the Town Planner has recommended that the applicant needs to get a variance from the Zoning Board.

There was as discussion about agi-tourism and previous rulings by the state supreme court. Mr. Howland and Mr. O’Malley felt that they still need a variance. Mr. Andrew read through the five criteria for a variance that the applicant wrote in their application. Mr. Janvrin made a motion to grant the variance. Mr. Howland seconded the motion. The motion passed 5-0-0. The applicant left at 7:45 pm.

Ms. Wolfe asked if this granted variance is for every year going forward. After some discussion, it was decided that the applicant would not need to come back every year to get a variance for this use.

Mr. Howland made a motion to adjourn at 7:49 pm. Mr. Downing seconded the motion. The motion passed 5-0-0.

Respectfully Submitted,

Casey Wolfe
Land Use Administrative Assistant