

Present: Chair Doug Andrew, Neal Janvrin, Todd O'Malley, Jack Downing, alternate member Josh Yokela, and Land Use Administrative Assistant Casey Wolfe

Also Present: Tom Nisbet

Mr. Andrew started the meeting at 7:00 pm. **He made a motion to appoint Mr. Yokela to vote on behalf of Mr. Howland. Mr. Janvrin seconded the motion. The motion passed 4-0-0.**

I. Minutes

Mr. Downing made a motion to accept the minutes of September 25, 2018. Mr. Janvrin seconded the motion. The motion passed 5-0-0.

II. New Business

Case #019-001/Variance

Variance request by Tom Nisbet to the terms of Article 5 Section 502 of the Fremont Zoning Ordinance. The applicant seeks to expand his legal non-conforming use at 326 Main Street at Map 3 Lot 37-2. The applicant would like to construct a previously approved building for commercial/light manufacturing purposes. The building was originally approved in 2005, but has since lost its vesting rights, per NH RSA 674:39.

Mr. Andrew read the case into the record. Mr. Nisbet passed around the plans and a rendering of the proposed building. He explained that about 13 years ago he bought two properties at Coopers Corner. Shortly after he bought the properties, the developer constructing the condo complex left town. The developer did not finish the septic systems, wells, or outside lighting. He also sold all of the loam on site. Mr. Nisbet had to complete the site and now maintains the land. He now owns six or seven of the condo units and is now finally able to construct unit 12. The area is industrial and would not be a good place for residential purposes. The building was approved in 2005, however, since then the lot has been zoned as residential.

Mr. Nisbet wanted to know if this would be a continuance of an existing legal non-conforming use rather than an expansion. He explained that ever since he bought the property, he has used the land (where unit 12 is proposed to be built) for his business continuously. He uses the area as an outside work space, his dumpster is on that site, and there was a shed in this area for a long time. Mr. Yokela felt that even though the structure was never built, the use has been continued all along. Ms. Wolfe explained that it was the Town Planner's opinion that constructing this building would qualify as an expansion of a non-conforming use, however, she did anticipate that the Zoning Board may disagree with her opinion. Mr. Yokela did not feel that this qualifies as an expansion if it certainly is the case that this use has been going on continuously on this land. Mr. Nisbet ensured that the use has been continuous.

Mr. Andrew read from Article 5 Section 502 of the Zoning Ordinance that, "A variance is not required if the expansion is a natural expansion which does not change the nature of the use, does not make the property proportionately less adequate, and does not have a substantially different

impact on the neighborhood.” Mr. Yokela felt that what Mr. Nisbet is asking to do is allow light-manufacturing to continue on this lot. This would not require a variance from the Zoning Board. Mr. Janvrin stated that they can grant the variance request regardless and get the same result for the applicant. Mr. Yokela asked Ms. Wolfe if there are any benefits to granting the variance as opposed to deciding that the variance is not needed at all. Ms. Wolfe stated that a variance request would have a two year timeline before the approval expires. She stated that the Board needs to decide whether or not the applicant needs the variance to build this structure.

Mr. Yoklea made motion, based on the statements from the applicant that he has not discontinued the use and under Article 5 Section 504 of the Zoning Ordinance, that light manufacturing on this property is grandfathered, and therefore, this case is not warranted. Mr. O’Malley seconded the motion. The motion passed 5-0-0. Mr. Nisbet does not need the variance. Ms. Wolfe mentioned that when the applicant got his site plan amendment from the Planning Board, one of his conditions was to get this variance from the Zoning Board. She felt that this decision still fulfills the Planning Board’s condition. The Board agreed. There was some discussion about changing the zoning for Mr. Nisbet’s lot. This zoning change would have to go on the March 2020 Warrant Article. Ms. Nisbet left at 7:21 pm.

III. Other Business

Board Reorganization

Mr. Janvrin made a motion to appoint the current officers to remain in their current positions. Mr. Downing seconded the motion. The motion passed 5-0-0. Mr. Andrew will remain the Chair of the Zoning Board and Mr. Howland will remain the Vice Chair.

Mr. Janvrin made a motion to adjourn at 7:27 pm. Mr. Downing seconded the motion. The motion passed 5-0-0.

Respectfully Submitted,

Casey Wolfe
Land Use Administrative Assistant