

Board Members Present: Chair Doug Andrew, Members Neal Janvrin, Joshua Yokela, and Kalup Veneman; Leanne Miner, Land Use Administrative Assistant.

Also present:

Applicants Mike Rislove and Anders Ragnarson of Fremont Land LLC; William Gregsak, Gregsak and Sons Inc., Representative for the Applicant

I. WELCOME

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

II. MINUTES

Mr. Janvrin made a motion to approve the meeting minutes as amended from October 24, 2023. Mr. Yokela seconded the motion and the motion passed 4-0.

III. PUBLIC HEARING

The Public Hearing for Case 023 -004 was called at 7:02 PM.

Ms. Miner read the case notice.

Case 023-004 – Public Hearing – Map 2, Lot 151-2; 44 Iron Horse Drive

Applicant Fremont Land, LLC proposes to install solar panels within the 100-foot wetland setback at a commercial property located at 44 Iron Horse Drive in Fremont NH having a parcel identification of Map 2, Lot 151.002. The proposed solar array will be installed 50-feet from the wetlands.

Permitted uses in this area do not include installation of structures, including solar panels, so the Applicant has applied for a Special Exception in accordance with Article 12 Section 1201.8 of the Fremont Zoning Ordinance.

Before the hearing proceeded, the Applicant’s representative, Mr. Gregsak, was informed that there was not a full Board available so a majority vote of 3 out of 4 votes will be required to grant the Special Exception. After discussing the matter with his clients, Mr. Gregsak chose to proceed with the current Board of 4 members.

Mr. Gregsak presented his case to the Board. Below is a summary of facts along with questions, answers, and comments made throughout the presentation.

- Mr. Gregsak provided an overview of the general status of parcel development within the existing commercial subdivision. He described specifically the limitations on the parcel which led to the proposed placement of the solar array. Phase 1 of the manufacturing development has been built. Placement of the array is limited around the building due to septic (south), shading by the building (west), building roof slopes west, and the panels must face to the south. The wetland buffer is very close to the building area and the parking area covers the front of the building up to the roadway. The land is very flat. There is an earthen berm approximately 50 feet from the wetlands that was found to contain tree stumps. This site was previously a gravel pit and the berm and stumps were left from clearing during gravel pit operations.
- The berm is approximately 10 feet high. The stumps are located along the base of the berm.

- Maintenance will be limited to mowing the solar array area. The array will look very much like the array located in Brentwood at the Fire Station along Rte 125.

Ms. Miner read the notification report and provided information for the hearing as follows:

Date Published in Union Leader 11/17/23

Date Posted Town Hall 11/14/23

Date Posted at Post Office 11/15/23

Date Mailed to Abutters 11/15/23

Date Posted on Town Website 11/14/23

One abutter did not receive the notice that was sent (it was being held at the post office for pickup).

Documents provided to the Board included the following:

- Plan Sheet 1, Titled Solar Panel Conceptual Layout, dated October 4, 2023.
- Letter of Intent dated October 24, 2023
- Application for Special Exception received October 24, 2023
- Letter of Denial from Fremont Building Inspector dated November 2, 2023
- Letter permitting William Gregsak, PE of Gregsak and Sons, Inc. and Ryan Lavelle of Lavelle Associates to act as representatives for the applicant.
- Specification Sheet from Sunmodo showing construction of SunTurf® Ground Mount System
- Report by Michael Cuomo, Soil and Wetland Scientist with the Rockingham County Conservation District (RCCD), dated November 21, 2023.

Ms. Miner summarized actions leading up to the public hearing as follows:

The Applicant appeared before the Planning Board for a Preliminary meeting for a Site Plan Review and was referred to the ZBA to request a Special Exception for the construction of the solar array.

The Conservation Commission reviewed the project and have questions and comments.

Mike Cuomo, Soil and Wetland Scientist with the RCCD visited the site and provided his findings of the environmental effects of the proposed use upon the wetland buffer in question in the report distributed.

Mr. Gregsak added that some of the panels are already in place. The contractor let the owners know that they would take care of permitting, however they actually proceeded to work without a permit from the Town. Upon notice, the owners approached the Building Department and Planning Board to correct this.

Mr. Yokela asked about comments required as per the Zoning Ordinance, specifically noting that comment from the Health Officer were absent. Ms. Miner made note to correct that for the record. Though required per the Ordinance, other Board members did not voice concern over continuing without input from the Health Officer.

Mr. Yokela stated that in his opinion the project did not meet the criteria that the proposed project is “essential to the productive use of land”. He also stated his opinion that this use is benign and does not have a “detrimental impact” to the land.

Ms. Miner made mention that the Planning Board is reviewing a new zoning ordinance for solar energy and offered some RSAs that support solar in general. Further comments were made over general utility choices for the development.

The Planning Board viewed the project in favor during a preliminary meeting with the Applicant on October 4, 2023. Comments were also requested from Town Departments including Fire, Police, Office of Select Board, and Code Enforcement. Comments received included:

- The Code Enforcement’s comments are in the form of a permit denial letter enclosed in the application.
- The Police Department stated “No issues”.
- The Conservation Commission stated no opposition to the project but had a number of questions, some of which have already been answered (maintenance, ground disturbance, whether there were locations outside the buffer that were available). They inquired about sensitive flora in the area? Ms. Rislove responded that there are mostly grasses in the area. The area is mostly sands and gravels so not much grows in the area. A site visit was recommended and if planned the Conservation Commission wishes to attend. The Commission also asked that the decision by the Board include conditions noting restrictions in Watershed areas per the Zoning Ordinance Article 12, Section 1203.8, Item D (Prohibited Uses) including, but not limited to disposal of brush or stumps, use of road salt or other de-icing chemicals, dumping of snow containing de-icing chemicals brought from outside the district.

Ms. Miner read highlights from the RCCD report related to special exception criteria of “detrimental impact”:

- Construction techniques only slightly disturb the soil.
- The site is flat and limited vegetation due to the nature of surface soils of what was previously a gravel pit.
- A soil berm remains between the proposed use. Mr. Cuomo further points out that the construction area is such that if soil were to erode, soil cannot flow into the wetland given the topography and presence of the berm.
- Mr. Cuomo suggested the Board discuss other areas outside the buffer that may be available and more suitable for the project, but otherwise concluded that the solar array can be constructed and is positioned to minimize any significant detrimental impact of the use upon the wetland.

Mr. Janvrin motioned to open the hearing to public comment with a second from Mr. Yokels seconded the motion and the motion passed 4-0.

- Harold Corbett, 651 Main Street, spoke in favor of using solar panels for power generation which do not generate noise or pollutants associated with coal fired electric power.
- William Jarmen, 18 Kenniston Lane, inquired about size and location of the proposed array. He voiced no opposition to the project.
- Viginia Mansfield, 651 Main Street, asked about erosion and potential impact to the berm and wetlands. The Applicant responded explaining no impact due to the configuration of the panels and high permeability of the soils. Ms. Mansfield voiced no opposition to the project.

Mr. Janvrin motioned to close the hearing to public comment with a second from Mr. Yokela. The motion passed 4-0.

Mr. Andrew asked the Board if there was any interest in a site visit to which the Board responded they did not think a site visit was necessary.

For the record, Ms. Miner reviewed the criteria with the Board that are part of the application. Below are the Applicant's responses as submitted in the application (*in italics*) and any further comment.

- 1. Is the use one that is ordinarily prohibited in the district? *The proposed use is to install solar panels within the wetland setback.*** Ms. Miner noted that the Town views the panels as structures which are prohibited in the wetland buffer (Watershed District).
- 2. Is the use specifically allowed as a special exception under the terms of the ordinance? *The proposed use is to install solar panels within the wetland setback.*** Ms. Miner noted that as a utility the use is allowed if it meets criteria. Board members did not object.
- 3. Are the conditions specified in the ordinance for granting the exception met in the particular case. *Yes.*** No further comment was made on this criterion.

Mr. Janvrin made a motion to grant the applicant's request for a special exception as specified in Article 12, Section 1201.8 of the Fremont zoning ordinance to permit the construction of solar panels within the 100 foot wetland buffer at 44 Iron Horse Drive, identified as tax parcel Map 2, Lot 151-2, as shown on a the plan submitted with the application entitled Solar Panel Conceptual Layout, dated October 4, 2023 with conditions noting restrictions in Watershed areas per the Zoning Ordinance Article 12, Section 1203.8, Item D (Prohibited Uses) including, but not limited to disposal of brush or stumps, use of road salt or other de-icing chemicals, dumping of snow containing de-icing chemicals brought from outside the district. Mr. Veneman seconded the motion and the motion passed 3-1 (Mr. Yokela voting Nay).

The Case was closed at 7:50 PM.

IV. CONTINUED BUSINESS – None

V. ADMINISTRATION – None

VI. OTHER BUSINESS – Ms. Miner noted that the Planning Board has a public hearing scheduled for December 6 to discuss 3 proposed amendments for the 2024 Warrant. The Board is also reviewing a draft solar ordinance the same evening.

VII. ADJOURNMENT

Mr. Andrew made a motion to adjourn the meeting at 7:52 PM. Mr. Veneman seconded the motion and the motion passed 4-0.

Respectfully Submitted,



Leanne Miner, Land Use Administrative Assistant