

Board Members Present: Chair Doug Andrew, Vice Chair Dennis Howland, Members Neal Janvrin, Todd O'Malley, and Joshua Yokela

Also present:

Leanne Miner, Land Use Administrative Assistant;
Applicant David Blatchford, 936 Main St
Applicant Kelly Loyd, 57 Kelsey Drive
Applicant John Ferris, 70 Thunder Road

I. WELCOME

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

II. MINUTES

Mr. Yokela made a motion to approve the meeting minutes from July 27, 2021. Mr. Janvrin seconded the motion and the motion passed 5-0.

III. NEW BUSINESS – VARIANCE REQUEST Case 021-007

The Public Hearing for Case 021-007 was called at 7:02 PM by Mr. Andrew.

Ms. Miner read the case notice.

Case 021-007 - Public Hearing Map 2, Lot 129-002 936 Main Street: Applicant David G. Blatchford is seeking a Variance from the terms of Article IX, Section 901 (New and Expansion of Existing Structures) of the Fremont Zoning Ordinance to allow the expansion of the existing garage to add a second garage bay. This expansion would result in the intrusion of 138 sq. ft. of the structure 12 feet into the side set back where 20 feet is required from the property line.

The Applicant, David Blatchford, was invited to explain his request for variance. Mr. Blatchford explained that he is proposing to extend the current garage to an addition of the same footprint 20' x 24'. By doing this they intend to keep the roof line and design of the structure the same. The structure will extend into the setback in a triangular shape equally 138 square feet and be 8' from the side property line where a side set back of 20 feet is required. The total addition will add 480 square feet to the existing property. This will allow them to keep vehicles out of the elements and provide additional storage for yard and recreational vehicles. Due to the unique property shape, building design, slope of the property on both sides the house and location of underground utilities this is the only option to add to the design of the structure and keep the roofline and curb appeal of the house the same. There was some discussion and explanation about the view from the west property boundary abutter and any potential visual objections. It was noted that all abutters responded in favor including the west property abutter.

Ms. Miner read the notification report as follows:

Date Published in Union Leader 9/30/21
Date Posted Town Hall 9/28/21
Date Posted at Post Office 10/14/21
Date Mailed to Abutters. 10/14/21

Ms. Miner noted Department comments as follows:

Police – No issues

Road Agent – No comments. Property is on a state road.

Fire – No objections

Ms. Miner noted receipt of emails or letters from 4 abutters, all in favor of granting the variance request.

Mr. Howland motioned to open the public hearing to the public with a second from Mr. Janvrin. The motion passed 5-0.

Ms. Loyd of 57 Kelsey Drive was present and noted that she thought it was a great idea.

Mr. Janvrin motioned to close the public hearing to the public with a second from Mr. Howland. The motion passed 5-0.

Ms. Miner stated that the Application Criteria and Responses were posted online and provided to members in advance. She asked the Board if they would like to discuss any specific criteria.

With regard to Criteria 1: *Granting the variance would not be contrary to the public interest* - The Board noted that all abutters commented in favor of the Variance.

With regard to Criteria 2: *The use is not contrary to the spirit of the ordinance* - There is still separation of property and similar allowance for privacy by and from abutting neighbors.

Mr. Howland stated that he did not see the need for a site visit. Other members concurred with this statement.

Mr. Janvrin stated that he felt all criteria to grant a variance are met.

There was discussion about the location of septic and utilities and the slope of the land which do not allow for different placement of garage space.

Mr. Yokela made a motion to grant a Variance to Case 021-007 from the terms of Article IX, Section 901 (New and Expansion of Existing Structures) of the Fremont Zoning Ordinance to allow the expansion of the existing garage to add a second garage bay. The expansion will result in the intrusion of up to 138 sq. ft. of the structure up to 12 feet into the side set back where 20 feet is required from the property line. Mr. Janvrin seconded the motion and the motion passed 5-0.

VARIANCE REQUEST Case 021-008 House

The Public Hearing for Case 021-008 was called at 750 PM by Mr. Andrew.

Ms. Miner read the case notice.

Case 021-008 - Public Hearing Map 2, Lot 105-029: 57 Kelsey Drive: Applicants William and Kelly Loyd are requesting two (2) Variances from the terms of Article XII, Section 1201.5 (Wetlands and Watershed Protection District, Uses Permitted) of the Fremont Zoning Ordinance. The first variance request is to allow erection of a sixteen (16) by twenty (20) feet shed within the 100-foot

wetland buffer zone. The second variance request is to secure an after the fact variance for a house that was built within the 100-foot wetland buffer in 2000.

As a point of order Mr. Howland suggested the next two cases for Kelsey Drive be heard separate and chronologically. The members agreed that Case 021-008 for the House be heard first as Case 021-008. The second case will be for the Shed and be heard as Case 021-010.

Mr. Yokela noted that he did research of the files and there's a fair amount of history on this property.

Ms. Loyd was invited to explain her requests for variance. Ms. Loyd explained that they did not realize the home was built in the setback (in 2000) when they purchased the home (in 2001). She also noted that in fact one of the reasons they purchased the property was the wildlife present.

There was discussion and questions about the accuracy of the septic plan used for the variance request and the validity of the wetland line and setback given the lack of a stamp by a wetland scientist. Ms. Miner provided a map called Regrading Plan dated 1996. It appears that when the Mast Tree Estate Development was built, some lots were left out (including Lot 105-29 and 105-30) and the area regraded. It also appears that the Septic Plan included in the Variance Request used the Regrading Plan as their reference for the Septic Plan. Meeting minutes from 1996 recorded when the Owners (Charles and Louise Rowe) met with the Planning Board to see about combining the lots. This was subsequently accomplished through the Selectmen's office. In 1997 the owners addressed the Planning Board again at which time the Rockingham County Circuit Rider (Mr. Dreyer) noted that the combined lots -29 and -30 were not buildable due to the presence of wetlands.

In summary for the House: It is the Applicant's intent is to secure an approved variance that will bring the property up to current Fremont NH zoning laws. Back when their house was built in 2000, there was an oversight during the building permit process. As buyers, they were unaware of this oversight when they purchased the property in February 2001. An approved variance will correct all of the town's paperwork putting this lot into compliance.

Ms. Miner read the notification report as follows:

Date Published in Union Leader 10/14/21

Date Posted Town Hall 10/4/21

Date Posted at Post Office 10/14/21

Date Mailed to Abutters. 10/14/21

Mr. Janvrin motioned to open the public hearing to the public with a second from Mr. Yokela. The motion passed 5-0.

No public comments were made.

Mr. Janvrin motioned to close the public hearing to the public with a second from Mr. Yokela. The motion passed 5-0.

Mr. Janvrin stated that he believed all five variance criteria have been met. Mr. Janvrin also moved to grant the variance. Mr. Yokela seconded. Ms. Miner clarified the motion as follows:

The motion was made to grant Variance from the terms of Article XII, Section 1201.5 (Wetlands and Watershed Protection District, Uses Permitted) of the Fremont Zoning Ordinance to allow of the erection of the house, as it exists this day, within the 100-foot wetland buffer zone. All members voted in favor and the motion passed 5-0.

VARIANCE REQUEST Case 021-010 Shed

The Public Hearing for Case 021-010 was called at 750 PM by Mr. Andrew.

Ms. Miner read the case notice.

Case 021-010 - Public Hearing Map 2, Lot 105-029: 57 Kelsey Drive: Applicants William and Kelly Loyd are requesting a Variances from the terms of Article XII, Section 1201.5 (Wetlands and Watershed Protection District, Uses Permitted) of the Fremont Zoning Ordinance to allow erection of a sixteen (16) by twenty (20) feet shed within the 100-foot wetland buffer zone.

Ms. Miner stated that the Application Criteria and Responses were posted online and provided to members in advance. She asked the Board if they would like to discuss any specific criteria.

Ms. Loyd was invited to explain her requests for variance. Ms. Loyd referred to the comment made by the Conservation Commission. Not realizing restrictions in the wetland buffer, they spent a substantial amount of money on landscaping. As such they prefer the shed on the left side of the property which is also closer to the garage to allow ease of use. They also designed the porch to face the recently landscaped part of the property specifically for its use.

It was noted that there were no complaints on file about where the building is located and that substantial justice would not be served if the Loyds were required to relocate their home.

Mr. Howland noted that he finds the site plan lacking in understandable detail. The garage and porch are not shown. All that is shown on the map is the proposed home and septic location. From Google Mapping, Dennis also noted there is more than one access to the property which are not shown on the Site Plan. Mr. Howland would like to see a more detailed plan showing the location of the house, trees, driveway(s), wetlands, wetland buffer, and proposed shed location. There was discussion about flagging the wetlands and buffer.

Post Note: The Conservation Commission commented if the ZBA decides to grant a wetland setback variance for the shed, the Conservation Commission recommends the ZBA be located as far away from the wetland itself as is feasible rather than the currently proposed location. Possibly to the right of the house behind the septic system setback. Placing the shed there would not only increase the shed's distance from the wetland but also have the added benefit of moving it further away from their well. Furthermore, the Conservation Commission would recommend the ZBA require stone/gravel be installed around the shed to a depth of 6 to 12 inches to minimize runoff from the shed into the

wetland itself. In addition, the Conservation Commission would recommend the ZBA require that no regulated materials be stored in the shed in order to minimize the potential for harmful contamination of the wetland.

Members agreed a site visit is warranted and asked Mr. Loyd to have the proposed shed location and size flagged as proposed.

Mr. Andrew moved to continue the meeting at the property, 57 Kelsey Drive, on Sunday November 7 at 10AM. Mr. Howland seconded the motion and the motion passed 5-0.

Ms. Loyd left the meeting at 8:07PM

VARIANCE REQUEST Case 021-009

The Public Hearing for Case 021-009 was called at 8:10 PM by Mr. Andrew.

Ms. Miner read the case notice.

Case 021-009 – Public Hearing Map 2, Lot 1-018: 70 Thunder Road Applicants John and Valerie Ferris are seeking a Variance from the terms of Article IX, Section 901 (New and Expansion of Existing Structures) of the Fremont Zoning Ordinance to allow the erection of a twenty (20) by ten (10) feet shed within the thirty (30) foot side property line setback.

The Applicant John Ferris was invited to explain his request:

Mr. Ferris explained the configuration of the lot noting it is a long narrow lot that is wooded. The abutting property owner to the west has a home located at least 500 feet away. Given the location of the abutter's home Mr. Ferris noted the shed will not negatively impact his neighbor's views, property values, or in any way detract from the visual appeal of the neighborhood. Since the lot is long and narrow, and it restricts the possible locations for a shed. He noted the shed will be of wood construction and sheathed in vinyl siding of the same colors as the exterior of the house. The shed will be used to store lawn and garden equipment such as a lawnmower, rakes, shovels, and etc and is located a short distance from the driveway so they will have space for snow storage. Mr. Ferris noted that he spoke to 4 abutters and they were ok with the variance.

Mr. Howland asked about alternative locations. Mr. Ferris noted that along with the restrictions mentioned they are planning an addition on the back, beyond which the property slopes significantly.

Ms. Miner read the notification report as follows:

Date Published in Union Leader 10/14/21

Date Posted Town Hall 10/12/21

Date Posted at Post Office 10/14/21

Date Mailed to Abutters. 10/14/21

Ms. Miner noted Department comments as follows:

Police – No issues

Code Enforcement – Any building 100 square feet or larger requires a building permit.

Conservation Commission – The Conservation Commission has no recommendations for the ZBA regarding this variance.

Mr. Janvrin motioned to open the public hearing to the public with a second from Mr. Howland. The motion passed 5-0.

No public comments were made.

Mr. Yokela motioned to close the public hearing to the public with a second from Mr. O'Malley. The motion passed 5-0.

Ms. Miner stated that the Application Criteria and Responses were posted online and provided to members in advance. She asked the Board if they would like to discuss any specific criteria.

Members discussed and dismissed the need for a site walk.

With regard to Criteria 1: *Granting the variance would not be contrary to the public interest* - There is no other use for this property area.

With regard to Criteria 2: *The use is not contrary to the spirit of the ordinance* – The shed is located away from homes of abutting neighbors so there is a setback.

With regard to Criteria 4: *The proposed use would not diminish surrounding property values* – Mr. Howland noted that he agreed with the applicant's response.

With regard to Criteria 5: *Literal enforcement of the Ordinance would result in unnecessary hardship to the owner. (A) For 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 -

AND

(ii) The proposed use is a reasonable one - The property would need to be substantially regraded to meet the zoning ordinance.

The Board discussed a condition that the shed will not be located any closer than 10 feet from the west property line.

Mr. Janvrin made a motion to grant a Variance from the terms of Article IX, Section 901 (New and Expansion of Existing Structures) of the Fremont Zoning Ordinance to allow the erection of a twenty (20) by ten (10) feet shed within the side property line setback with the condition that the shed shall not be located any closer than 10 feet to the west property boundary. Mr. O'Malley seconded the motion and the motion passed 5-0.

IV. CONTINUED BUSINESS – No continued business was discussed.

V. ADMINISTRATION– Ms. Miner will review the hearing procedures for discussion with the Board.

VI. ADJOURNMENT

Mr. Janvrin motioned to adjourn at 8:26PM with a second from Mr. Yokela and the motion passed 5-0.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "D. Miner", written in black ink.

Leanne Miner, Land Use Administrative Assistant