

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

Also Present: Scott Barthelemy, Charles Bolduc, Carlene Bolduc, Brenda Barthelemy, Kevin Bolduc, John W. Doherty, Sarah Doherty, Bill Knee, Maria Ragonese Knee, Ellen Douglas, and Joe Nichols.

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

## **I. Minutes**

Mr. Howland made a motion to accept the minutes of January 23, 2018 and the site walk minutes of January 27, 2018. Mr. Downing seconded the motion. The motion passed 5-0-0.

## **II. Continued 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 referenced the site walk that the Board performed on January 27<sup>th</sup> and stated that he was unable to make the site walk. He summarized from the last hearing that the areas that they are proposing for the garage and shed are already impacted and that the area is not naturally vegetated due to the existing driveway. He felt that the hardship that his client has is that the building inspector, back when the house was originally built, misinterpreted the ordinance and did not require the home to be outside of the 100 foot wetland buffer. Mr. Andrew asked if the original house plans included the attached garage. Mr. Nichols stated that the original intent was to have a garage next to where the current chimney is. He also made it clear that the buffer for the prime wetland nearby is not being impacted. Mr. Knee asked if it has been considered to install a berm to retain runoff before it makes its way towards the wetland. Mr. Nichols reminded the Board that the area is already an impervious surface. The runoff currently goes through grass and vegetation before draining into the wetland. Mr. Andrew asked if there were any additional questions or comments from the public. There were none.

Mr. Andrew read the applicant's facts supporting the variance request as written by the applicant. The variance will not be contrary to the public interest because, *"the proposed area of the buffer to be impacted is not in its natural state, as the ordinance is intended. By placing the proposed structures over the existing driveway/lawn area this will not be contrary to the public's interest as it is not what the intent of the ordinance was adopted for."* The spirit of the ordinance will be observed because, *"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.” Substantial justice is done because, “the original structure to be was designated and built in the current location with the intent of adding on a garage in the future. The home owner was originally told that the property predated the wetland buffer regulation and was given a building permit to construct the home in the current location. This previous misinterpretation has caused a hardship.” The values of the surrounding properties are not diminished because, “as the location of the proposed structure will be similar to the surrounding properties. The addition will increase the value of the property to those consistent with the neighboring properties. By using the previously disturbed buffer areas and no impacting natural buffer areas it will not diminish surrounding property values.” Literal enforcement of the provisions of this ordinance would result in an unnecessary hardship because, “due to the original building permit being issued it has created an unnecessary hardship. Under the current interpretation the proposed location of the garage and shed do not meet the 100’ wetland buffer regulation. Based on the design of the house and driveway location the intended garage cannot be built and has created a special condition.” The proposed use is a reasonable one because, “the area to be used is the most logical location and does not disturb natural buffer areas as the regulation was designed for.”*

Mr. Janvrin made a motion to grant the variance to the terms of Article XII Section 1201.5 of the Fremont Zoning Ordinance. Mr. Downing seconded the motion. The motion passed 5-0-0. The applicant left at 7:11 pm.

### **III. New Business**

#### **Case # 018-003/Variance**

**Sarah Doherty seeks a variance to the terms of Article IX Section 902 of the Fremont Zoning Ordinance to permit the construction of a third residential unit on a lot with 220 feet of road frontage where 240 feet is normally required at 91 Sandown Road, Map 3 Lot 186.**

Ms. Doherty explained that she has lived in the house for two and a half months and would like a third family unit on the property for her parents. She is unsure of the footprint at this point, but she knows this proposal qualifies for multi-family housing. There was some discussion about a smaller lot that was subdivided off the larger lot. Ms. Wolfe commented to the Board that this proposal will need to go to the Planning Board for site plan review and that tonight the Zoning Board is only considering the frontage issue. After some questions, Ms. Wolfe clarified that the applicant will need to come back to the Zoning Board in the event that another variance is required. Ms. Wolfe read the building inspector’s comment into the record, “*My only concerns will come with building permits. No concern over 220’.*” Mr. Andrew asked if there were any more comments from the abutters. There were none. The Board decided not to do a site walk. Ms. Doherty clarified that she knows the frontage because the site has been surveyed.

Mr. Andrew read the applicant’s finding of facts supporting the variance request as written by the applicant. The variance will not be contrary to the public interest because, “*the property is located roughly 300 feet from the street. Additional taxes will be paid to the town for the*

*expanded property.*” The spirit of the ordinance is observed because, *“due diligence was sought by reaching out to the building inspector first. Property is only 20’ shy of requirement.”* Substantial justice is done because, *“abutters will be notified of proposed addition and given the opportunity to oppose if they so choose.”* The values of surrounding properties are not diminished because, *“Adding value to my property may potentially increase the value of surrounding properties.”* Literal enforcement of the provision of this ordinance would result in an unnecessary hardship, *“In order to support my parents and move them in, a variance would be required and if the letter of the ordinance was followed with no hearings, an unnecessary hardship would result in that it makes it challenging to support my family.”*

There was some discussion about multi-family housing vs. accessory dwelling units. Mr. Howland made a motion to close the public hearing. Mr. Janvrin seconded the motion. The motion passed 5-0-0. After some discussion, Mr. Janvrin made a motion to grant the variance to the terms of Article IX Section 902 of the Fremont Zoning Ordinance. Mr. Downing seconded the motion. The motion passed 5-0-0.

Mr. Howland made a motion to adjourn at 7:30 pm. Mr. O’Malley seconded the motion. The motion passed 4-0-1.

Respectfully Submitted,

Casey Wolfe  
Land Use Administrative Assistant