

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 Gary Densen of Haus Emily LLC
Barry Gier, Jones and Beach Engineers, Inc on behalf of Haus Emily LLC
Rob Roy, Guest Applicant for Alternate Membership

I. WELCOME

Mr. Andrew opened the meeting at 7:04 PM.

Dennis Howland and Joshua Yokel are joined via Teams. Ms. Miner reviewed 91 A III (a) Members can participate as a voting member via Teams. However, there must be a physical quorum. The Board will then have to vote to allow a member to participate as a voting member and any motion will require a roll call vote. See RSA 91-A:2, III(a). Nothing in Board procedures describe action required when members join electronically. Consider adding to procedure.

Mr. O'Malley made a motion to allow Mr. Yokela and Mr. Howland to participate in tonight's hearing as voting members. Mr. Janvrin seconded the motion and the motion passed.

II. MINUTES

Mr. Janvrin made a motion to approve the meeting minutes from November 23, 2021. Mr. O'Malley seconded the motion and the motion passed 5-0.

III. NEW BUSINESS

Case 022-001 - Public Hearing Map 2, Lot 070: Main Street Liberty Lantern Estates:

Ms. Miner read the public notice for Case 022-001

Applicant Haus Emily, LLC has submitted an Application for Special Exception to the terms of Article 12 Section 1201.8 of the Fremont Zoning Ordinance for the impact to Wetlands and Watershed Protection District to construct a roadway, drainage structures and ditches in a wetland buffer. The proposed structures will support a 13-unit Elderly Open Space project located at Map 2, Lot 070 on Main St in Fremont, New Hampshire. The construction of the proposed structures will impact 8,147 square feet of a wetland buffer.

Mr. Andrew invited the Applicant to present their case. Mr. Gier of Jones and Beach Inc. provided an overview of the site plan describing the location of buffer impacts presented on a site plan. He described stormwater collection and treatment of stormwater in the system. He then reviewed why they placed the entrance road and stormwater system in the buffer. Reasons included elevation – the system is placed in the lowest elevation. Mr. Gier went through the special exception criteria as follows:

Criteria 1 – Is the use one that is ordinarily prohibited in the district? *No. Elderly Open Space is allowed in all Districts.*

Criteria 2 – Is the use specifically allowed as a special exception under the terms of the ordinance.
Yes. Proposed use is specifically allowed as a special exception per Section 1201.8

Criteria 3 – Are the conditions specified in the ordinance for granting the exception met in the particular case? *Yes. Erosion control and stormwater treatment are provided to minimize any detrimental impact to the wetland and watershed protection areas.*

He reviewed the requirements in 1208.1 requirements for meeting the requirements of granting a Special Exception. He stated that the system is required to support the development and minimize impacts on watershed and wetland areas. Additionally, the area where road and structures proposed are located where the existing roadway.

The project was approved by the Planning Board and the Planning Board endorsed approval of the Special Exception by the ZBA.

Conservation Commission did not provide formal comments, but they did have concerns. Mr. Knee, Vice Chair, is here to speak to those concerns.

Ms. Miner read the notification report as follows:

Date Published in Union Leader 12-30-21

Date Posted Town Hall 1-13-22

Date Posted at Post Office 1-13-22

Date Mailed to Abutters 1-13-22

Ms. Miner noted that she had comments from Town Departments and submitted by the public as follows:

Department Comments

Ms. Miner noted that she had comments from Town Departments and submitted by the public as follows:

- The Building Inspector commented that *Minimum wetlands site impact must be considered and designed into this roadway during engineering.*
- The Police Department commented *no issues.*
- The Conservation Commission *discussed their concerns regarding potential contaminants in stormwater and the proximity of the structures to state-designated prime wetland, however they did not formerly provide comment for this hearing. The Commission did vote to send a letter of concern to the NHDES Wetland Bureau regarding future submittals to for the Alteration of Terrain permit.*
- Town Historian, Matthew Thomas (Ms. Miner hit the highlights of the following detailed response). *I personally feel that approving this proposed wetlands change defeats the purpose of having a wetlands protection ordinance. If the project cannot adequately conform to the project site, then the project needs to be redesigned to comply with the existing wetlands ordinance guidelines. I am already concerned with the property site having been extensively graveled out,*

and am not sure just how high the proposed building sites are above the existing water table within the proposed development. Therefore I am concerned about pollution, septic/leech field, rainwater/ wastewater run-off, and the negative impact on the surrounding wetlands & impacted vegetation. This is not an official objection, but rather a request that these questions be suitably addressed BEFORE approval is granted so that there is no negative impact on the surrounding wetlands, water table, or drinking water resources.

- Road Agent, Leon Holmes *Mr. Holmes Jr. noted that this is a private road. He encouraged the ZBA to consider input from the Conservation Commission and Town consultants including Town Engineer, Rockingham County Planning Commission, and Rockingham County Conservation.*

The Rockingham County Conservation District (RCCD) provided a technical report dated January 13, 2022 as a result of their review of the project.

Mr. Andrew inquired about the Conservation Commission input. Mr. Knee pointed out that the RCCD experts commented in their report that they design does not meet the minimization standard.

Mr. Gier argued that there is no ‘minimization standard’, but that the ZBA needs to grant the exception based on the 3 criteria in 1208.1 and reviewed his rational for meeting including modifications to the stormwater treatment design from a wet pond to a gravel wetland which provides better treatment to meet the town’s stormwater standard.

Mr. Andrew inquired about the redesign comment from the RCCD. Mr. Gier noted the septic area was modified based on RCCD comments to be longer and narrower and is now outside the wetland buffer. The comment regarding the location of the tree line will be cleared up on final plan development.

There was further discussion on minimization of impact and productive use of the land.

Mr. Howland voiced his concerns about the discharge which is directed into the wetland and ultimately the prime wetland. He inquired about redirecting discharge into the buffer further away from the edge of the wetland to allow more treatment time/distance.

Mr. Gier addressed this concern noting the discharge location which is the low spot on site and the system is there to treat the stormwater before discharge. Mr. Gier also noted that the RCCD commented that the impact for the spillway and outlet is reasonable.

Mr. Janvrin motioned to open the public comment period with a second from Mr. O’Malley. The motion passed 3-0.

Bill Knee, 93 Sandown Road – Mr. Knee asked questions about what the system treats in addition to allowing solids to settle. He noted his concern about adequate treatment of dissolved constituents such as pesticides, road salts, hydrocarbons. Mr. Gier noted the gravel wetland will address

phosphorus and the other dissolved constituents and meet regulatory standards. Mr. Knee is still concerned about the point source discharge going directly into the wetland.

Mr. Gier noted that they redesigned the treatment system to meet higher Best Management Practice (BMP) standards from the NH Department of Environmental Services.

There was more discussion about productive use of the land and perspective. He described the prime wetland which has importance in size and function which make the wetland a high value or prime wetland. This wetland has high value as a natural resource, to the Exeter River, and flood control. The impacts of the prime wetland are also important to the productive use of the land.

Rob Roy, 11 Currier Lane – Mr. Roy had some questions about common land and noted how wet the area is. There as discussion about where the site is located and how the foundations will be constructed.

Mr. Janvrin motioned to close the public comment period with a second from Mr. O'Malley. The motion passed 5-0 by roll call vote.

There was discussion about how the wetland looks on site. Ms. Miner described her impressions including former drainage features from the historic gravel pit and the presence of mostly forested wetland. Mr. Densen described that the wetlands appeared to have grown in a manmade drainage area and consists of all pine. The site is all well drained sand and gravel and around each home there will be stone bermed and drained directly adjacent to the home (no runoff). The driveway is one way and curbed so no runoff there. There was more discussion about the homeowners association requirements to maintain all structures and report annually on stormwater treatment maintenance. Mr. Gier explained the Alteration of Terrain permit review which includes detailed review of the stormwater treatment system, erosion and sedimentation control.

Mr. Janvrin motioned to grant the Special Exception to allow the construction of a roadway, drainage structures and ditches in 8,147 square feet of wetland buffer to support a 13-unit Elderly Open Space project located at Map 2, Lot 070. Mr. Yokela seconded the motion. The roll call vote was as follows:

Janvrin – yes

Andrew – yes

O'Malley – yes

Yokela – yes

Howland – no

The motion passed 4-1.

IV. CONTINUED BUSINESS – No continued business was discussed.

V. ADMINISTRATION

Ms. Miner provided an overview of the proposed Fremont Zoning Ordinance Amendments that will be on the ballot.

Ms. Miner noted that will be one new application was received for hearing February 22, 2022

VI. ADJOURNMENT

Mr. Janvrin motioned to adjourn at 811PM with a second from Mr. O'Malley and the motion passed 5-0.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Leanne", written in dark ink.

Leanne Miner, Land Use Administrative Assistant