

Present: Chair Doug Andrew, Dennis Howland, Neal Janvrin, Todd O'Malley, Jack Downing, Joshua Yokela, and Land Use Administrative Assistant Leanne Miner

Also Present: Fred Belanger (Applicant) and Ella Driscoll (Owner)

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

I. Minutes

Mr. Janvrin made a motion to accept the minutes of May 28, 2019. Mr. Howland seconded the motion. The motion passed 5-0-0.

II. New Business

Case #019-003 - 46 Tibbetts Road - Variance

Variances requested for property owners Ella and Jayson Driscoll to construct a new single family dwelling on and inside the existing dwelling footprint. The applicant submitted two variance requests.

Mr. Andrew read the case into the record. A summary of the variances requested are as follows:

The first variance request is to the terms of Article IX including:

Section 901 (New and Extension of Existing Structures):

- Front; seventeen (17) feet exist where fifty (50) feet are required.
- Right; seventeen (17) feet exist where thirty (30) feet are required.
- Left; twenty three (23) feet exist where thirty (30) feet are required.
- Rear; twenty two (22) feet exist where thirty (30) feet are required.

Section 902 (Frontage) for reduced frontage of seventy five (75) feet where two hundred (200) feet are required.

The second variance request is to the terms of Article XII, Section 1203.8-B (Aquifer Protection District, Use Regulations, and Minimum Lot Size) where the lot size is 0.12 acres where a minimum of three (3) acres are required.

Mr. Andrew turned the meeting over to the applicant to present his case. Mr. Belanger explained his plans and answered questions from the Board. He explained that the plan is to demolish the existing structure to rebuild. In the new building footprint he plans to remove a portion of the existing structure which will actually increase one of the setbacks. He also stated that the shed would be removed. The building will be 1208 square feet with 2 stories and 2 bedrooms. A leach field is not required and Mr. Belanger has a septic approval for a holding tank from the state which will be provided to the Building Inspector. He also noted that the new building will have low flow appliances. The lot was created prior to zoning regulations in Fremont, but he wants to go through this process with the Board so that he may proceed with his project.

Ms. Miner noted that comments were received from the Police Department stating no issues and from the Board of Selectmen. The Board of Selectmen comments were taken from the draft Board of Selectmen Meeting Minutes are as follows:

The Board expressed concern of any expansion of a non-conforming use in this area and wanted to be sure that all pertinent agencies relative to the potential wetlands disturbance be consulted. The Building Inspector would monitor any of the flood repairs, including that the new structure meets all pertinent building codes and the FEMA requirements, including being elevated in the flood zone. The Board reference the June 12th letter (to the owner from the Building Inspector) and would want to see all of the Inspector's concerns addressed.

There was also discussion about the septic system and its proximity to the Exeter River. Currently it is believed there would only be some typed of holding tank in this location.

There was discussion about how long use of this home has been discontinued, and what effect that has on the grandfathering status.

The owner, Ella Driscoss, noted that the home has been empty since 2009 and was foreclosed on in 2010. The home was recently gutted in preparation for new building, but the owners were overwhelmed with the processes of rebuilding which is why they are working with Mr. Belanger now.

Mr. Yokela distributed copies of a page from the 1947 zoning regulations which he thought were the most relevant as many of the homes in this area were built around 1950. The applicant did not provide a deed that stated the age of the lot. The Board discussed the comparison of the setbacks in 1947 compared to today, noting that there would still be a variance required on the right side of the property.

There were questions and discussion about the construction of the foundation in the flood plain. Mr. Belanger noted that there would be a full foundation, but that it would be partially filled with gravel such that only a crawl space would remain. The top of the foundation will be 2 to 2.5 feet above the highest 100 foot flood elevation.

Mr. Andrew asked the Board if they felt that variances were actually required and there was discussion about whether or not this building footprint was grandfathered. The Board agreed that there was no need for a site visit. The Board also agreed that there had been no change in land use from residential. In general the Board felt that in this case the foundation was shrinking and not expanding so a variance is really not required, however the applicant had applied for one and there was no objection to the request.

Mr. Janvrin made a motion to grant the variance request to the terms of Article IX including Sections 901 and 902. Mr. O'Malley seconded the motion. The motion passed 5-0-0.

Mr. Janvrin made a motion to grant the variance request to the terms of Article XII, Section 1203.8-B. Mr. Downing seconded the motion. The motion passed 5-0-0.

Mr. Belanger left at 7:45 PM.

There was further discussion on which zoning ordinance may have been in question under this circumstance in the event that future similar requests come to the Building Inspector. The Board reviewed and discussed Sections 908 and concluded that unless a building footprint expanded into setbacks, then this Section would not apply. The Board also reviewed and discussed Section 503 (Special Exception for Non-Conforming Use) and felt that in this case a Special Exception would apply for the vertical expansion (due to revised building elevation requirements related to flooding). Ms. Miner will relay this information back to the Building Inspector for future consideration.

III. Other Business

Ms. Miner shared recent legislative updates from Rockingham Planning Commission, Jennifer Rowden, specifically the passing of house bills HB 136 (increasing the maximum period for the zoning board of adjustment to hold a public hearing from 30 to 45 days) and HB 370 which is an act relative to membership on city and town planning boards.

Mr. Janvrin made a motion to adjourn at 8:00 PM. Mr. Howland seconded the motion. The motion passed 5-0-0.

Respectfully Submitted,

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

Leanne Miner
Land Use Administrative Assistant