

## **Zoning Board of Adjustment** **February 28, 2017**

**Members Present:** Scott Lees-Chairman, Craig Niiler-Vice Chairman, Karl Ogren, Jake Stephan, John Krebs

**Members Absent:**

**Others Present:** Janice Zecher-Recording Secretary, Carole Demore, Bob Smart, Mark McConkey, Dale McConkey, John Femino, Denise Femino, James Beckwith, Nancy Beckwith, Phillip Beckwith, Vicki Chapman

Meeting called to order at 7:00pm.

Craig introduced the board members to the public, and explained the rules and procedures, as well as the definition and guidelines for a Variance and Special Exception.

The minutes from December 20, 2016 were reviewed and changes requested as follows:

John Krebs seconded the motion to adjourn. Change Karl's name here to John's.

Motion was made by Scott and seconded by Jake to accept the December minutes as amended. All were in favor.

**Case #31-21-17 William & Cheryl Taylor.** Variance under Article 3, Section 304.5 and 310.1.5 to allow the applicant to construct a home and detached garage on his lot outside the setbacks exceeding the allowed 10% lot coverage on 64 North Broad Bay Road, Map #31, Lot #21

Scott introduced Mark McConkey to the audience. Mark is representing the Taylors and presented the plans and application. Mark also distributed house plans and told the board he would need a tree cutting variance as well. Scott asked Mark to review justifications for the current variance request which Mark did.

Scott reviewed additional items needed on the plan i.e. retaining wall, bulkhead, and well cover. Ad 10 for the garage roof overhang.

**Discussion was opened to Abutters.** Bob Smart is an abutter on the north side of the property. He has no objections to the project but asked if the septic could be moved from the North side to the South side of the house. He said that Hartley Well Drilling told him if his well ever failed, there was only one place to put his new well and it would be too close to the Taylor's septic if it were installed on the North side. Mark said they could probably make this accommodation.

**Discussion was opened to the Public.** Carole Demore asked for clarification on boundary line and the 10% rule. Scott clarified both. Craig asked Mark if the tree cutting would be a variance or a special exception. Mark said it would be a variance because they can meet the point requirements.

John was concerned about the 13% and would like to see the garage reduced in size to bring it back to 10%. He would also like to see the tree cutting proposal included on the plan.

John would like to continue the application until the entire plan is presented. Scott agreed, would like to see the plan closer to 10% but said the side setback is good. Karl would like to see the garage reduced.

Craig agrees with the continuation and believes they can build to 10%. Jake is ok with the garage but would like to see the tree cutting plan presented with the rest of the application as well as a runoff plan.

Recommendation was made by Scott to continue the application to show:

- Show the tree cutting plan
- Update the plan to show the well or delete it.
- Retaining wall to be 60 or less doesn't need to be there.
- Show where a new well would go if a new one needs to be dug.
- Show storm water runoff on the site.
- Set lot corner and have surveyor confirm so they are sure the garage is within the setbacks.
- Note on plan that the home and garage meet height requirements and that no living space will be above the garage.
- Label abutters on the plan.

Mark McConkey will try to get the application in, or ask for a continuance before the deadline. Otherwise it will be continued to April.

Motion was made by Scott for continuation of both applications (variance and special exception), seconded by Karl. The board agreed unanimously.

**Case #29-30-17 Femino Family Investment Trust** ó Applicant seeks variance under Article 3, Section 304.5 and 310.1.5 to: Allow the applicant to construct a new home with an attached garage, a carriage house, a ground deck to the existing boat house, a driveway, and a perched beach with an interior retaining wall. At 405 Huckins Road, Map #29, Lot #30

Mark McConkey is representing John and Denise Femino, who were also present for this application.

Mark reviewed reasons for requesting the variance, showing Arial views of neighboring properties. He explained the perched beach will need a wetlands application which is being discussed. Reviewed the tree cutting plan briefly, explained there will be plantings on the property to make up for the tree cutting. There is currently no formal driveway. The Feminos would install a chain link fence around the entire property.

Scott told Mark the existing shuffleboard and fireplace will need to be added to the total percentage of coverage. He would also like spot grades above and below the perched beach. Add "proposed" to retaining walls. He has great concern with the 22%.

Craig felt the plan was too much. Jake and Karl both agreed. John felt the setbacks are ok. Each piece is too much on its own.

Mark said he will consult with the homeowner and requested a continuance.

**Public Comment:**

Scott asked if there were any abutters in favor of the project, there was no show of hands. He then asked if there were any abutters not in favor. There were several people objecting.

James Beckwith, abutter to the Feminos spoke to concerns with the project.

- Elevation is a concern. The property is within the flood plain. Mr. Beckwith showed pictures of the lot and the property under water. He said the property floods when the lake levels rise which is the reason the houses are built on stilts.
- How much does grade need to be raised. They would have to build up the lot to avoid flooding which will redirect flood water to the abutter's properties.
- Concerned with tree removal.

Craig Niiler confirmed the property is in the flood plain.

Nancy Beckwith, abutter to the Femino's spoke to her concerns with the project.

- She is concerned about the number of trees being cut. The trees and their roots help to absorb extra water during floods. Removal would increase flooding.

Carole Demore from the public asked for clarification on the fence that would surround the property. Mark explained that it is a color coated chain link fence, less than 6 feet tall that would surround the property.

John Krebs asked to have the well radius added to the plan.

Karl asked to have the planting plan submitted.

**Tree Cutting** – There were tree cutting diagrams submitted. Mark explained that the left grid conforms to town requirements, and the right side conforms more to state standards.

Jake noted section 304.6.5.4 of the Zoning Ordinance in reference to tree cutting in the flood plain.

Scott explained grid patterns in relation to lot size and shape. Tree count should be proportional to grid size and shape. It is ok to have smaller grids than 50x75 but keep the tree count proportional. Scott also felt it was ok to use the state tree plan. If the state has changed their requirement, and doesn't approve the plan, however, the town's approval is void.

Carole Demore asked what the final decision is. Craig explained the tree cutting plan is up to 75 feet from the water, because the lot is in the flood plain, the 75 feet is extended to 300 feet.

There was no further discussion on case #29-30-17. Motion to continue made by Scott, Seconded by John Krebs. All were in favor.

**Case # 29-9-1-17 Femino Family Investment Trust** - Applicant seeks variance under Article 3 Section 304.5 and 310.1.5 to: Relocate his existing home on an adjacent lot, to be placed on this lot of record, construct a driveway, well and septic on Huckins Road, Map #29, Lot #9-1.

**Case #29-9-1-17 Femino Family Investment Trust** – Applicant seeks a Special Exception under Article 3 Section 304.6.4.1 for: Erosion Control on Huckins Road, Map #29, Lot #9-1

Mark McConkey is representing John and Denise Femino, who were also present for this application.

Mark reviewed the plans and application and reviewed justifications for the current variance and special exception requests. He explained that the porch would be removed from the existing house and that the house would be reduced in size to a 2 bedroom at most.

**Discussion:** Scott asked Mark where the septic would go. Mark responded that he isn't sure if the septic will be separate or communal. Scott told him he would have to have an agreement with the town for using town property for this. Scott also wanted to be sure this lot is not on wetlands.

Scott asked if there were any abutters in favor of the project, there was no show of hands. He then asked if there were any abutters not in favor.

**Public Comment:** James Beckwith, abutter to the Femino's stood and said this property is within 300 feet from the shoreline which makes it waterfront property. The placement of this house will be within 15 feet of his property line. The septic is within 60 feet of the proposed well. This house is on a blind corner. Approval of this type of project would also set a precedent for future applications. He is opposed to this project.

Vicki Chapman, abutter to the Femino's lot stood and said the building will also be within 15 feet of her property line. The trees will all have to be cut for this house to fit and asked how this works if the property is considered waterfront. She said that she had to work very hard to get ZBA approval for her property.

Karl believes the first application (29-30-17) should be decided before this application (29-9-1-17) can be decided on.

Mark stepped out with his clients to discuss. Returned and said they are ok to wait and resubmit the application with the updated application for case #29-30-17.

Scott asked to include on the updated application: The names of the abutters be on the plan. Show where the septic and well will be located.

There were no further questions or discussion on this case.

John made a motion to continue, seconded by Karl. All were in favor.

**Other Business:** Scott's term is expiring this year. He asked to have his name submitted to the Selectmen to be reappointed. He stated he would be interested in a board member position if anyone were interested in being Chairman of the ZBA. He will reintroduce this at the March meeting.

Scott made a motion to adjourn, seconded by Karl. All were in favor.

Meeting was adjourned at 9:45 pm.

Respectfully Submitted,

Janice Zecher