

Zoning Board of Adjustment
June 27, 2017

Members Present: Karl Ogren-Acting Chairman, John Krebs, Jake Stephan, John Quigley (A), Dennis Anderson (A)

Members Absent: Scott Lees, Craig Niiler

Others Present: Janice Zecher-Recording Secretary, Carole Demore,

Meeting called to order at 7:00pm. Karl introduced the board members to the public, and explained the rules and procedures.

The minutes from May 23, 2017 were reviewed. On the last paragraph under "other business," changed "excused" to "recused." Under the last paragraph in the first case, add "Paul Mathieu was also against." It was noted that the approval for the 10% rule Case #29-30-17 Femino Family Trust was not listed on the minutes. Karl made a motion to table review of the May minutes until this information could be provided. seconded by John Quigley. All were in favor.

Case #26-24-17 Todd & Terri Kirby Applicant seeks a variance under Article 3, Section 304.2 to move an existing dwelling from West Bay Road to a lot on Pequawket Trail at Map #26, Lot #24.

Todd Kirby represented himself and reviewed the application with the board. The house has already been moved to his property but he needs a variance for sideline setbacks. Abutters in favor of Brad Helquist spoke in favor of the application. There were no abutters against the application. Mr. Kirby asked if he could get one more foot approved in case anything went wrong. The board agreed to change the request from 23 ½ feet to 22 ½ feet. The plan was amended and submitted.

The board reviewed the Variance Worksheet for Article 3 Section 304.2

- | | |
|----------------|------------------------|
| 1. Carried 5-0 | 4. Carried 5-0 |
| 2. Carried 5-0 | 5. A. (i) Carried 5-0 |
| 3. Carried 5-0 | 5. A. (ii) Carried 5-0 |

Summary of the facts of the case discussed at the public hearing:
-Abutter is in favor.

A motion was made by Scott, seconded by Craig, that based on the foregoing findings of fact, the requested variance from Article 3 Section 304.2 of the Town of Freedom Zoning Ordinance be granted.

Conditions:

1. Per plan dated 6/27/17 named "Kirby".
2. Relief to right boundary 22 ½ feet minimum.
3. All state and local permits must be obtained.

Motion carried 5-0

Case # 37-8-17 Kevin and Susan Vater. Applicant seeks an appeal for a variance under Article 3, Section 310.1.5 to construct a 2 bay attached garage which exceeds the allowed 10% lot coverage at 295 West Bay Road, Map #37, Lot #8.

Kate Richardson from Bergeron Technical Service presented this application on behalf of Kevin and Susan Vater.

John Krebs noted the garage is inside the 75ø setback.

Kate explained that the porch and wood retaining wall are not included because of the wording of the zoning ordinance.

The board explained to Kate that she will have to re-apply for the 75ø setback variance and have Ned deny the application. They asked that on the next application, Kate submit an erosion control plan and that if they are going to cut any trees, she will need to submit a tree cutting plan with Ned and have that approved. The board would like to see the body of water on the plan labeled, and the Kate's calculations of impervious both pre and post construction.

Jake made a motion to continue this application, seconded by John Quigley.

Case #29-30-17(b) Femino Family Trust A new application was submitted for the Femino Family Trust. Mark McConkey represented the Feminos and reviewed the new plans with the board.

To: Relocate the existing home to a neighboring lot, replace a home, construct a detached garage, retaining walls, decks, storm water structures, relocate an outdoor fireplace, remove a few trees and add plantings and trees.

- This is a new ZBA application. It was submitted using the Zoning Officer's denial from the first application 29-30-17.
- The 10% coverage variance request does not need to be addressed as it was approved in the May meeting.
- The new plot plan shows 11.3% lot coverage even though the 10% variance was approved in May based on May's plot plan showing 11.74%

Boathouse, setback, and tree cutting plans were then reviewed. Mark handed out a simplified tree cutting plan. It was noted by the board that grid # 5, 6, 7, 9, 11, 12 are not full grids. The tree cutting and erosion control are special exceptions and don't meet the conditions.

There was confusion as to whether or not this was actually a new application. The plans don't show the same information as what the application is asking for.

Abutters in favor ó None

Abutters opposed ó James Beckwith, presented photos of trees in the Femino's yard.

Public Comment ó Carole Demore noted that 25% of the trees on this lot are being cut down. She asked if this is typical of lots like this?

John Krebs noted concern about maneuverability of the driveway. Mark assured the board that the owner is comfortable with it the way it is.

Mark then reviewed the grades and tree plan.

John Krebs asked if the applicants would consider making the back deck section a bit smaller and keep a tree on the perched beach.

A 5 minute recess was called at 9:25 pm. The meeting resumed at 9:30 pm.

The board shared their concerns individually; Jake Stephan-The trees at the perched beach and the low deck.

John Quigley- no concerns.

Denny Anderson- Would like to save 1 or 2 trees on the perched beach. Agrees with Jake on the low deck. It could be grass.

Karl Ogren-Too many walls, trees in the middle of the retaining wall.

Mark will adjust the southern deck of the boathouse length back from the wall to save a 16ö pine tree. The boathouse deck will be narrowed from 10 feet to 8 feet, and the low deck will be changed from 10 feet to 6 feet. Denny Anderson said with those changes, he was fine with the plan, and he will keep the seawall tree. He will submit a new plan within 4 days.

Karl made a motion to rule on the special exception for erosion control Article 3, Section 304.6.4.1 and the variance for setbacks, Article 3, Section 304.5. The perched beach, the tree cutting plan, and a final look at the dock will be continued until the July meeting.

The board reviewed the **Special Exception** worksheet for **Article 3 Section 304.6.4.1**:

- A. 5-0 J. 5-0
- C. 5-0 K. 5-0
- H. 5-0 L. 5-0

There are no summary of facts to be reported for this case.

Based on the forgoing findings of fact, the requested **Special Exception** from **Article 3 Section 304.6.4.1** of the Town of Freedom Zoning Ordinance was granted with the following conditions:

- 1. Per zoning plan dated 06/07/2017 titled “Zoning Plot Plan, Femino Family Investment Trust, John Femino, 11 Meadowwood Road, Boxford, MA 01921, Drawn by Mark E McConkey.**
- 2. Erosion control must be in place throughout construction and site stabilization.**

The board reviewed the **Variance** worksheet for **Article 3, Section 304.5**.

The Summary of Facts to be reported on this Variance are:

- 1. Does not include relocating the existing home to a neighboring lot.**
- 2. Does not include construction of detached garage.**
- 3. Does not include relocating an outdoor fireplace.**
- 4. Shuffleboard to be removed.**
- 5. Existing house to be removed before construction begins.**
- 6. Does not include perched beach walls.**

The board reviewed the Variance Worksheet for Article 3 Section 304.5

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|----------------|------------------------|
| 1. Carried 3-2 | 4. Carried 3-2 |
| 2. Carried 3-2 | 5. A. (i) Carried 3-2 |
| 3. Carried 3-2 | 5. A. (ii) Carried 3-2 |

based on the foregoing findings of fact, the requested variance from Article 3 Section 304.2 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

- 1. All setbacks are per plans titled a) Setbacks for Femino by McConkey 5/6/2017 and b) Zoning Plot for Femino Family Investment Trust, John Femino 11 Meadowwood Road, Boxford, MA 01921, Drawn by Mark E. McConkey dated June 7, 2017.**
- 2. Open deck north side, reduced from 10 feet to 6 feet and revised plan shall be submitted reflecting that change. Will return to board in July with revised perched beach.**
- 3. All state permits must be obtained prior to beginning construction.**
- 4. Existing house to be removed or razed before construction begins.**
- 5. All structures shall be razed (shuffleboard) or constructed according to plans prior to issuance of occupancy permit.**

John Quigley made a motion to adjourn the meeting, seconded by Denny Anderson. The meeting adjourned at 10:30 pm.

Respectfully Submitted,
Janice Zecher