

Zoning Board of Adjustment
September 25, 2018

Members Present: John Krebs, Karl Ogren, Craig Niiler Vice Chair, Scott Lees Chair, Jake Stephan,

Members Absent: Tim Cupka, (A), John Quigley (A), Dennis Anderson (A)

Others Present: Janice Zecher, Recording Secretary, Don Harris Zoning Officer,

Meeting called to order at 7:00pm by Scott Lees. Scott introduced the board members to the public, and explained the rules and procedures. There was a quorum present of 5 members.

The minutes from August 28, 2018 were reviewed by the board. John Krebs made the following recommendations:

Page 1, second paragraph of the Thomson application, second sentence, change *“if they go through with the denial”* to *“if they proceed with the application and it is denied”*.

Page 2, first paragraph change *“mowed it down”* to *“mowed the plantings down”*. Change *“had to be at 6”* to *“had to remain at 6” in height*.

Page 2, second paragraph. Change *“more discussion on the low cost”* to *“the board discussed the cost”*. Change *“hat will not interfere with anyone’s view”*. To *“Jake McConkey commented that the trees could interfere with abutter’s view of the lake”*.

The board unanimously approved the minutes as amended.

Case # 20-4-18 Farmer’s Lane Association. Continued

Applicant seeks an appeal for a Variance under Article 3, Section 304.5 side setbacks to construct a perched beach/waterside structure at Clover Lane, Tax Map 20, Lot 4.

Mark and Jake McConkey approached the board. Mark passed out photos both before zoning was adopted in Freedom and present. Mark also gave the board a new plan showing 6 shrubs and while reviewing it, said a stone swale is not necessary.

Scott Lees read aloud the letter written by Paul Elie, Chairman of the Freedom Conservation Commission after that board reviewed the updated information at their September 18th meeting.

On June 15, 2018 DES requested in a letter that Farmer’s Lane Association send pictures of the Junipers that DES had originally requested. Karl asked Mark if this had been done. Mark said he was not aware of this and that there is nothing to present to the state.

Abutters: Anthony Raynes, abutter said he is not opposed to the beach, but is very concerned about the protection of the lake and the aesthetics of the project.

Cheryl Bernard is not an abutter but a member of the association said that water runoff was the original reason for the plantings. The reason the plantings didn’t live was because of subpar

planting. She said there is no proof of who cut the plantings. Mr. Raynes fence and trees are on association property. Lastly, she said the association is completely willing to install plantings.

Public Comment: Paul Elie from the public said the intent behind the FCC letter and involvement is for conservation and stabilization of a steep slope. Water runoff is a huge problem on Ossipee Lake causing excess nutrients to get into the water. The FCC is not trying to obstruct, but they want to avoid this situation from happening again.

Mark Bernard from the public remarked in response to Paul Elie that the slope looks exactly like it did 20 years ago. There are no plantings needed at all.

Chairman Scott Lees asked the board if they were ok with the new plan submitted by Mark. Craig and Karl were ok, John Krebs would have liked to discuss more than just junipers for the plantings. Scott requested the swale be at a minimum 6", not the 2 ½ shown on the plan. Mark agreed. He also said if any of the plantings die, they will be replanted immediately. He also clarified that any stairs are temporary and will be removed when not used.

The board reviewed the Variance Worksheet for Article 3 Section 304.5.

- | | |
|--------|------------|
| 1. 5-0 | 4. 5-0 |
| 2. 5-0 | 5ai. 5-0 |
| 3. 5-0 | 5a.ii. 5-0 |

Summary of the facts of the case discussed at the public hearing:

- 1. Original cutting of lot was prior to 1980, possibly 1970 as shown in photographs**
- 2. This is a community beach**

Based on the findings of the variance worksheet the requested Variance from Article 3 Section 304.5 of the Town of Freedom Zoning Ordinance be granted with the following Conditions:

- 1. Per plan titled "Revised Zoning Plot for Farmers Lane Association, dated 09/23/18.**
- 2. Drainage swale along top of wall shall be a minimum of 6" deep.**
- 3. That six native shrubs be planted above the retaining wall (in addition to the five shrubs depicted on map), for a total of 11 plantings.**
- 4. That one picture of the entire hillside prior to construction and one picture of the entire hillside after construction, including all trees/shrubs be forwarded to the Zoning Officer.**
- 5. That one picture of the entire hillside be taken every summer for three consecutive years and forwarded to the Zoning Officer.**
- 6. Full compliance with all federal, state, and local ordinances, specifically tree cutting in the Shoreline and Woodland buffers.**
- 7. Bushes planted shall be 1 gallon minimum.**

Case # 30-21-18 William & Marguerite Hatch. Continued

Applicant seeks an appeal for Variance under Article 7, Section 706.2 sideline setbacks. Applicant wishes to remove existing home and replace with a new one at 315 Huckins Road, Map#30, Lot #21.

A new plan was received in the mail by Land Trust on September 24th attached to a new plot. Because Mr. Hatch was going to review the Preliminary Shoreland Impact Site Plan dated September 10, 2018 and the Proposed Home plan dated September 11, 2018, the board agreed to disregard the plan received on September 24. The letter from Land Trust was to NH DES for a Shoreland Permit.

After reviewing, the board asked for a tree cutting plan to show what is existing for points and what will be left. If any of the grids end up being less than 100 points, or the prorated equivalent for a smaller grid, Mr. Hatch will have to ask for a variance. The Hatches requested a continuance. Scott made a motion to continue, seconded by Karl, all in favor.

Case # 29-33-18 Victor & Carrie Buonfiglio.

Applicant seeks an appeal for variances under Article 3, Table 304.5 shore front right, left and water setbacks, Article 3, Section 310.1.5 10% rule. Also special exception under Article 3, Section 304.6.4 erosion control and section 304.6.4.1 construction at 419 Huckins Road, Tax Map 29, Lot 33.

Mark and Jake McConkey presented this case on behalf of Victor and Carrie Buonfiglio. Mark passed out an 8 ½ X 11 plan to the board which had not been presented earlier. After reviewing, Jake asked why the house could not be moved back to 75'. Mark said his customer preferred to build as is. There were no abutters present, or members of the public to speak to this application. Scott suggested moving the house back enough so the percentage of impervious is the same as it is now. The house being built is bigger than the current house being torn down. Mark said he had been instructed by his client to reduce the house to less than 10% and requested a continuance. Scott made a motion to continue, seconded by Karl.

Case # 29-14-18 Anthony Bonarrigo.

Applicant seeks an appeal for a variance under Section 7, Article 706.2, expansion of a non-conforming structure, side setbacks at 386 Huckins Road, Map 29, Lot 14.

Mr. Bonarrigo presented his application to the board, explaining that he had added on to an 8 x 12 addition to make it a 14X20 addition. He did not get any permits and when the property next door sold, the new owner had the property surveyed. Mr. Bonarrigo's expansion was 3 feet into his neighbor's property. Mr. Bonarrigo is asking the board for a variance to remove the portion of the building that is on his neighbor's property plus 3 more feet as the addition was originally 3 feet from the setback. This will cause the building to be angled.

Ed Miller, Mr. Bonarrigo's abutter and the land owner whose property has the building on, is not opposed to the request as long as it is consistent with town policies and regulations as they are written.

John Krebs asked Mr. Miller if he would mind if the back of the house ended up being one foot from the lot line to make the room square. Mr. Bonarrigo declined and said he would prefer to stay with his original plan.

The board reviewed the Variance Worksheet for Article 7 Section 706.2.

- 1. 5-0 4. 5-0
- 2. 5-0 5ai. 5-0
- 3. 5-0 5aai. 5-0

Summary of the facts of the case discussed at the public hearing:

- 1. Original structure built in the 70's.**
- 2. Addition was built in 2009**
- 3. Problem was discovered by the abutter when a survey was done.**
- 4. Ed Miller, abutter is in agreement of this plan.**

Based on the findings of the variance worksheet the requested Variance from Article 7 Section 706.2 of the Town of Freedom Zoning Ordinance be granted with the following Conditions:

- 1. Per plan titled "Plot Plan at 386 Huckins Road dated 08/17/18"**
- 2. Per plan titled "Plan trapezoid dated 09/25/18"**
- 3. House to be removed so that it is no closer than 3 feet from property line**
- 4. Work to be completed by the end of 2018.**

Case #40-1-4-18 Robert Mullen, Chris Eanes

Applicant seeks an appeal for a Special Exception under Article 3, Section 304.6.4.1 erosion control and Section 304.6.6.4 tree cutting for a 12.5% grade within 300 feet of reference line at 85 West Bay Road, Map 40, Lot 1-4.

Alan Fall reviewed the application as agent for the applicants. Alan said that the trees being removed have been deemed hazardous by licensed forester Barry Keith. With this information, the board agreed unanimously that the special exception for tree cutting within 75' of the reference line was not necessary. The erosion control being used is silt sock. The board asked for a detailed drawing of where the silt socks will be located.

There were no abutters present and no members of the public spoke to this application.

The board asked Don Harris if he would be comfortable accepting the updated plan at a later date. Don said he was. Jake said he would like to wait until the plan is complete because of past experiences but if Don was comfortable, he would approve. Board unanimously approved.

The board reviewed the Special Exception Worksheet for **Article 3 Section 304.6.4.1, Erosion Control.**

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

Summary of the facts of the case discussed at the public hearing:

- 1. Trees to be cut are hazard trees and will be approved by the Zoning Officer**
- 2. Erosion control will be silt sock.**

Based on the foregoing findings of fact, the requested Special Exception from Article 3 Section 304.6.4.1 as it pertains to erosion control of the Town of Freedom Zoning Ordinance is granted with the following conditions:

- 1. Per plan titled “Post Conditions plan, Robert J. Mullen & Patricia M. Kelley-Mullen, Chris Eanes & Nesta L Eanes dated February 2, 2018”.**
- 2. Subject to state approvals**
- 3. Sign off by Freedom Zoning Officer on erosion control detail.**

Case # 4, Lot 17-1 John Ostiguy

Applicant seeks an appeal for a Special Exception under Article 3, Section 304.6.4.1 erosion control and section 304.6.6.4 tree cutting for a 12.5% grade within 300 feet of reference line at Porter Road, Map 4, Lot 17-1.

Alan Fall presented this application as agent for John Ostiguy who was also present. This property is zoned commercial and the applicant would like to build a road/driveway. Even though Route 25 lies between the lot and the river, he is within 300 feet of the waterway. Mr. Ostiguy will need to apply for a variance as well. The board requested a tree cutting plan and agreed unanimously to continue this application for Special Exception and a new application for a variance.

Case #42-20-18 Debra Palacio Revocable Trust of 2012

Applicant seeks an appeal for a Special Exception under Article 3, Section 304.6.4.1 erosion control and Section 304.6.6.4 tree cutting for a 12.5% grade within 300 feet of reference line at 55 Packard Drive, Map 42, Lot 20.

James Rines from White Mountain Survey & Engineering reviewed this application on behalf of Debra Palacio. This application for a new home was approved in March of 2018. Changes were made to the orientation of the house and the driveway was moved to the other side of the house. In relocating the driveway, trees will need to be cut on a slope greater than 12.5%. The board asked for a tree cutting plan. After discussion, James measured the plot plan and said the slope is only at 10%. The board agreed he will not need the Special Exception. James reviewed the erosion control plan with the board and there were no issues found.

Jean Marshall, abutter asked to see the plan as the new driveway is much closer to the lot line. Karl explained to her that there is no setback for driveways. There were no further questions or comments from the board or abutters. Nobody from the public spoke to this application.

The board reviewed the Special Exception Worksheet for **Article 3 Section 304.6.4.1, Erosion Control.**

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

Summary of the facts of the case discussed at the public hearing:

None

Based on the foregoing findings of fact, the requested Special Exception from Article 3 Section 304.6.4.1 as it pertains to erosion control of the Town of Freedom Zoning Ordinance is granted with the following conditions:

1. Per ZBA application plan for Palacio Revocable trust of 2012 dated 09/10/2018

New Business: Scott asked who would be attending the ZBA training at the Town of Eaton on October 29th. Dennis, Janice, Scott, Don, John Krebs, and Craig will attend. Janice will notify the Town of Eaton.

Old Business: Karl and John Krebs updated the board on the joint meeting of the ZBA and Planning Board held on September 20th. The board will wait to see what the Planning Board suggests.

There being no further business, Scott made a motion to adjourn, seconded by Karl.

Meeting was adjourned at 11pm.

Respectfully Submitted,

Janice Zecher