

ZONING BOARD OF ADJUSTMENT
P.O. Box 227
FREEDOM, NH 03836

Freedom Zoning Board of Adjustment: **March 26, 2013**

Present: Chairman Scott Lees; Karl Ogren; Jake Stephan; Tim Cupka; Todd Desmarais
Others Present: Linda Farinella, Recording Secretary

Chairman Lees called the meeting to order at 7:00 pm.

During this meeting the following cases will be heard:

Case #3-2-12 Freedom Village Condominiums
Case #29-05-13 Jon Comeford
Case #32-8-13 Frank J. and Kathryn M. Lalumiere

Notification of this meeting was published in the Conway Daily Sun and posted at the Freedom Town Office and the Freedom Post Office.

Chairman Lees introduced the Board to the public.

Motion by Ogren, seconded by Chairman Lees to accept the minutes of the February 26, 2013 with changes. The motion passed 4 to 1 with Desmarais abstaining.

Chairman Lees invited **Case #3-2-12 Freedom Village Condominiums** to approach the board with a continued request for a special exception under Article 3 Section 304.6.3.1 and a variance under Article 1 Section 103 to repair a boat ramp that requires erosion control measures.

A letter was received asking for an extension to the April 2013 meeting. Motion by Chairman Lees, seconded by Cupka to continue this case until the April 2013 meeting. The motion passed unanimously.

Chairman Lees invited **Case #29-5-13 Jon Comeford** to approach the board with a request for a special exception under Article 3 Sections 304.6.3.1 and 304.6.5.3 and variances under Article 3 Section 310.1.5 and Table 304.2 to construct a home and garage within the side line setback, exceed the allowable 10% lot coverage, clearing plan and erosion control.

Chairman Lees noted that comments were submitted from the Conservation Commission regarding this application. The commission acknowledged that the applicant has met requirements to prevent erosion during construction and installation of infiltration trench around building.

Mr. Jon Comeford and Mr. Mark McConkey, agent, approached the board. Mr. McConkey explained that they have permission to use the White Mountain Survey plan presented with changes.

Mr. McConkey explained that they are asking for variances for the sideline setback and 10% lot coverage. With their original plan the home would fit within the building area, but to match the orientation of the homes already on the street and to give some room between their neighbors they have opted to ask to build 20ø from the side line.

Chairman Lees asked for their justification for exceeding the 10% lot coverage rule. Mr. McConkey responded that the neighborhood has homes already exceeding the 10% and wants to build a full-time home; adding they are observing more setback than many homes.

Mr. McConkey added that plantings of white pine will be planted on both edges of the property.

Ogren asked if a cut plan was submitted. Mr. McConkey responded that this was the first time he has cutting across the road in the shorefront district was not sure if necessary. The Board reviewed Article 3 Section 304.6.5.3 and it does require a cutting plan for tree cutting from 75ø to 300ø

Chairman Lees asked if there were trees coming down. Mr. McConkey responded that in April 2012 there were trees cut. Chairman Lees stated that the plan needs to be revised to show what was there, what was removed and what will be planted.

Mr. McConkey stated that silt fence will be used for erosion control.

Mr. McConkey submitted a plan that is different from what was submitted with the application. Mr. McConkey explained that the home will be 38ø x 44ø on a foundation of 36ø x 44ø. The variance requested is measured from the eaves. The total lot coverage will be 3,122 square feet or 12.6% coverage. Those numbers will be added to the revised plan.

The setback of the garage was discussed. The Board understood the reasoning for building within the setback but Chairman Lees questioned the justification for exceeding the 10% coverage. Desmarais could not see the hardship.

James Rines, public, added comment regarding the 10% lot coverage. The State of NH allows for a greater percentage of impervious coverage on lots smaller than half an acre. Those few percentage points may not be as important as thought as the property has good soil.

Chairman Lees asked for abutter or public comment. There were none.

Chairman Lees asked for accurate dimension of the lot and square footage to be depicted on the revised plan.

Motion by Chairman Lees, seconded by Ogren to continue this case to the April meeting. The motion passed unanimously.

Chairman Lees invited Case #32-8-13 Frank J. and Kathryn M. Lalumiere to approach the board with a request for special exceptions under Article 3 Sections 304.6.3.1 and 304.6.5 and variances under Article 3 Section 310.1.5 and Table 304.2 to construct within the setback steps, drainage swale, retaining wall and level lip spreader; exceed the allowable 10% lot coverage, tree removal.

Chairman Lees informed the board that he worked on these plans when he was employed with White Mountain Survey; no one had an issue.

Mr. James Rines, agent for the applicant from White Mountain Survey and Engineering Inc., approached the board. This property was before the board in 2010.

Mr. Rines explained that variances were being requested to build steps at 16.9ø from the sideline and to have lot coverage of 12.8%. The stairs were approved in 2010 but the owner had a problem finding person to do the work without equipment. The dug in stairs will be safer than following the current foot path.

Mr. Rines explained that they are requesting two special exceptions. One is for erosion control and one for tree removal.

Desmarais asked how wide the stairs will be. Mr. Rines stated 4 ½ø inside; 6 ½ø outer edge to outer edge.

Ogren asked if 12.8% or 13.5% lot coverage is being requested. Mr. Rines apologized for the typo, the request if 13.5%.

Desmarais asked what the difference in percentage coverage would be with pervious landings on the stairway. Mr. Rines did some calculations and responded 12.9%. Desmarais then asked the difference in percentage coverage if the stairs were 4ø instead of 4 ½ø. Mr. Rines did some calculations and responded 12.7%. Desmarais stated he can see the hardship being the slope of the land is very steep.

Chairman Lees noted that comments were submitted from the Conservation Commission regarding this application. The commission questioned if trees were being removed for the stairs. There are not trees being removed for the stairs.

Chairman Lees asked for abutter or public comments. Karen Hudson, abutter, sent a letter stating she is not in favor of the step being placed within the setback.

Mr. Rines explained that the 2010 approval received already allows for trees to be removed; the change in location is because the stairs now follow a path made by the owners.

Desmarais stated it is not impossible to build the stairs following the setbacks. Desmarais would like to allow Hudson the opportunity to be present. Mr. Rines explained that the spirit of the ordinance requires health, safety and welfare to be taken into consideration; it would be easier for emergency personnel to access the area with the proposed stairs.

Ogren asked for a new plan with smaller stairs showing the calculations; and speak with the abutter Mrs. Hudson.

Motion by Ogren, seconded by Cupka to continue this case to the April meeting. The motion passed unanimously.

Motion by Ogren, seconded by Cupka to appoint Scott Lees as Chairman and Craig Niiler as Vice-Chairman. The motion passed.

Ogren, Stephan and Cupka were all reappointed as regular members by the Selectmen for 3-year terms. The Selectmen did not reappoint Thomson or appoint Schiller as alternates. Dennis Anderson expressed interest in serving. A letter will be sent inviting him to the April meeting.

A letter will be sent to the Selectmen requesting them to fill the vacancy of an alternate.

Motion by Cupka, seconded by Ogren to accept a letter of withdrawal for **Case #09-26-13 Raymond and Susan Desharnais** regarding their Appeal of Administrative Decision for Article 3 Section 304.

The Planning Board has requested the Board's presence at their May 16th meeting to discuss Article 3 Section 309. A letter will be sent stating available members will attend.

The Board received a letter from Ned Hatfield asking for clarification about a case. It was briefly discussed.

The meeting adjourned at 9:04 pm.