

**Zoning Board of Adjustment**  
**P.O. Box 227**  
**Freedom, NH 03836**

Freedom Zoning Board of Adjustment: **October 22, 2013**

**Members Present:** Chairman Scott Lees; Vice-Chairman Craig Niiler; Karl Ogren; Jake Stephan; Tim Cupka

Others Present: Linda Farinella, Recording Secretary

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

During the meeting the following cases were heard:

**Case #38-3.03-13 Rhonda and Carlton Lane/Berry Bay Condominium Assoc.**

**Case #28-12-13 Robin Buhrer**

**Case #27-2-13 Gordon and Jayne Broz**

**Case #49-6-13 Richard F. Staples Trust**

**Case #33-32-13 Richard and Judith Previer**

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

Chairman Lees introduced the Board to the public.

Motion by Cupka, seconded by Stephan to accept the minutes of the September 24, 2013 as written. The motion passed unanimously.

Chairman Lees invited **Case #38-3.03-13 Rhonda and Carlton Lane/Berry Bay Condominium Association** to approach the board with a continued request for a variance under Article 3 Table 304.2 of the zoning ordinance to construct a shed within the side yard setback at 28 Houle Drive.

The applicant submitted a letter requesting that the case be continued to the November meeting.

Anne Cunningham, Planning Board Chairman was present. A letter was presented from the Planning Board regarding this case. The Planning Board is the entity that approved the Site Plan for this condominiumized property in 2007. At that time it was determined that what was on the lot along with the provision for two future garages was the maximum density for the lot. This request for a shed will have to come before the Planning Board.

All members agreed that this application will have to go before the Planning Board and a letter will be written to the applicant explaining their options as to how to proceed as follows:

- Continue the application process with the ZBA. If the ZBA approves your application, the applicant will be required to submit an application to the Planning Board for review. The Planning Board application will have to be prepared by a licensed land surveyor.
- Present an application to the Planning Board showing the requested shed meeting all zoning requirements with no need to return to the ZBA for a variance.

- See if the applicant can have a preliminary meeting with the Planning Board to determine if the 2007 approval allows for the addition of a building to the property.

Motion by Chairman Lees, seconded by Niiler to continue this hearing to the November 26<sup>th</sup> meeting. The motion passed unanimously.

Chairman Lees invited **Case #28-12-13 Robin Buhrer** to approach the board with a request for an appeal for a variance under Article 4 Section 406 and a special exception under Article 3 Section 304.6.3.1 of the zoning ordinance to replace an existing failed septic system within 125ø of wetland at 479 Huckins Road.

The Board reviewed an old file from 1993; and the Freedom Conservation Commissions (FCC) concerns: Trees removed beyond 75ø mark and inside of 300ø mark.

Mark McConkey, Agent, explained that the current failed septic needs to be replaced. The proposed replacement will exceed the setbacks for the better of the present system but still does not meet town requirements. The leach field will be located at 84.8ø from the wetland; the septic tank will be 33.41ø from the wetland. The intention is to use the same hook up to the house.

There were no abutters or public present.

Chairman Leesø expressed concern for the lack of a detail for the silt fence.

Mr. McConkey confirmed that there will be no trees removed and that the tank will be sealed and grouted.

The board reviewed the variance worksheet for Article 4 Section 406:

- 1.5 to 0
- 2. 5 to 0
- 3. 5 to 0
- 4. 5 to 0
- 5Ai. 5 to 0
- 5Aii. 5 to 0

Motion by Chairman Lees seconded by Stephan that based on the forgoing findings of fact, the requested Variance from Article 4 Section 406 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Septic tank shall be sealed and grouted.
2. Per plan titled Robin Buhrer dated 07/12/2013.

The motion passed unanimously. The applicant was informed of the 30-day appeal period.

The board reviewed the special exception worksheet for Article 3 Section 304.6.3.1:

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

Motion by Chairman Lees seconded by Cupka that based on the forgoing findings of fact, the requested Special Exception from Article 3 Section 304.6.3.1 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. No work shall commence until silt fence and hay bale detail is submitted to the Town.
2. Erosion control shall be installed prior to any earth moving and remain in place until all work is done and site is stabilized.

The motion passed unanimously. The applicant was informed of the 30-day appeal period.

Chairman Lees invited **Case #27-2-13 Gordon and Jayne Broz** to approach the board with a request for an appeal for a special exception under Article 3 Section 304.6.3.1 and a variance under Article 3 Table 304.2 of the zoning ordinance to construct a 30~~0~~ 36~~0~~ garage within the sideline setback at 425 Pequawket Trail.

Niiler recused himself. The applicant was informed that he will be heard by a 4-member board. He is entitled to five. Mr. Broz stated he will proceed with a 4-member board.

The Board reviewed an old file from 2000; and the Freedom Conservation Commissions (FCC) concerns: Run-off of new garage roof. It is recommend that the owners consider installing filtration trench on each side of roof and the concern with protecting 2 trees by minimizing root damage during construction.

Gordon Broz approached the board with a request to construct a 30~~0~~36~~0~~ garage 10~~0~~ within in the sideline setback. There are currently two fabric shelters that he would like to consolidate to look nicer. The property has a 20~~0~~ easement, a steep area, trees and a utility pole with guy wires that restrict the location of the shed. The house is the last in the lower section of the road with 140~~0~~ of space to the next structure.

Chairman Lees asked the applicant if he has applied for a shoreland permit. Mr. Broz was not aware that one was required.

Chairman Lees and Ogren agreed that the size of the garage seems large for a variance; a smaller garage would not need a variance. Mr. Broz noted that there are ten homes in his neighborhood with garages and 50% of those are three-car garages.

Mr. Broz explained that the easement requires he only provide 20~~0~~ of viable crossing.

Stephan noted the power pole could be moved or the garage could be long and narrow. Ogren suggested making the garage smaller and Chairman Lees suggested a boundary line adjustment.

Chairman Lees asked if there were abutter or public comments.

Victor Gould, abutter, stated he is in favor of this project.

The Board will look into rules on making sure there is enough room left on the lot to support a new septic in event of a failure.

Mr. Broz will return to the board with a new plan showing the garage turned and further from the setback, shoreland bureau infiltration trench detail and silt fence detail.

Motion by Chairman Lees, seconded by Ogren to continue this hearing to the November 26<sup>th</sup> meeting with a November 12<sup>th</sup> submittal deadline. The motion passed unanimously.

Chairman Lees invited **Case #49-6-13 Richard F. Staples Trust** to approach the board with a request for an appeal for special exceptions under Article 3 Sections 304.6.3.1 and 304.6.5 of the zoning ordinance to rebuild existing deck and support piers, replenish beach sand and remove hazard trees within the shorefront at 79 Loon Lake Road.

There was no one present for this hearing. It was agreed to table until the end of the meeting.

Motion by Chairman Lees, seconded by Ogren for a five minute recess at 8:05pm. Motion passed unanimously. The Board reconvened at 8:10pm.

Chairman Lees invited **Case #33-32-13 Richard and Judith Previer** to approach the board with a request for special exceptions under Article 3 Sections 304.6.3 and 304.6.5 of the zoning ordinance to replace two failed retaining walls and remove trees at 7 Holt Road.

The FCC had no concerns regarding this case.

Brian Berlind of Land Technical Services Corp, agent, and Richard and Judith Previer, approached the Board with a request to replace two existing retaining walls on Danforth Pond. One wall is in very poor shape and the other deteriorating wall will be replaced at the same time. Mr. Berlind explained that this application falls under the NH Wetlands jurisdiction so if approved a PBN will be filed tomorrow. All work will occur during low water. The silt fence detail is on page 4 of the plan.

Chairman Lees asked if the walls will be replaced in kind. Mr. Berlind responded that the dimensions will be the same but the construction will be in concrete. The length will be the same and the width will remain very close, it will be the width of the precast concrete.

The trees in the way of construction will be removed. The major trees will remain; only clumps of small trees will be removed. Even with that removal, the points will still be above the minimum allowed.

Chairman Lees asked for abutters or public comments. There were none.

The board reviewed the special exception worksheet for Article 3 Section 304.6.3.1:

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

Motion by Chairman Lees seconded by Cupka that based on the forgoing findings of fact, the requested Special Exception from Article 3 Section 304.6.3.1 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Per plan set dated October 7, 2013 titled Proposed Special Use Permit & Wetlands Permit by Notification Plan for Richard & Judith Previer.
2. Successfully obtain approval from New Hampshire DES Wetlands.
3. Erosion control shall be installed prior to any earth moving and remain in place until all work is done and site is stabilized.

The motion passed unanimously. The applicant was informed of the 30-day appeal period.

The board reviewed the special exception worksheet for Article 3 Section 304.6.5:

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

Motion by Chairman Lees seconded by Cupka that based on the forgoing findings of fact, the requested Special Exception from Article 3 Section 304.6.5 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Per plan set dated October 7, 2013 titled Proposed Special Use Permit & Wetlands Permit by Notification Plan for Richard & Judith Previer.
2. Any additional tree cutting needs to be approved by the ZBA.

The motion passed unanimously. The applicant was informed of the 30-day appeal period.

Chairman Lees invited **Case #49-6-13 Richard F. Staples Trust** to approach the board with a request for an appeal for special exceptions under Article 3 Sections 304.6.3.1 and 304.6.5 of the zoning ordinance to rebuild existing deck and support piers, replenish beach sand and remove hazard trees within the shorefront at 79 Loon Lake Road.

The FCC's concern: In addition to beach sand replenishment, consider erosion control.

Barry Keith of BH Keith Associates, Agent, explained that the 145' of frontage has some big pines with stress cracks that are problematic. These trees will be removed with no effect on the point count. The owner will be replacing the deck in kind with the exception of the 4x4 pressure treated posts which will be replaced with precast concrete footings that will require manual digging.

The beach has lost sand. There will be an application to NHDES for a Minimum Impact permit for beach replacement. That work will be done with a bobcat or wheelbarrow. The silt fence will remain employed until work is done. The trees will be removed with a crane in the late fall before snow with the deck work being done in the spring.

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

The board reviewed the special exception worksheet for Article 3 Section 304.6.5:

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

Motion by Chairman Lees seconded by Ogren that based on the forgoing findings of fact, the requested Special Exception from Article 3 Section 304.6.5 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Per plan dated 10/02/2013 titled Shorefront Improvement Plan of Lands of Richard F. Staples Trust.
2. Successfully obtain New Hampshire Wetlands approval.

The motion passed unanimously. The applicant was informed of the 30-day appeal period.

The board reviewed the special exception worksheet for Article 3 Section 304.6.3.1:

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

Motion by Chairman Lees seconded by Niiler that based on the forgoing findings of fact, the requested Special Exception from Article 3 Section 304.6.3.1 of the Town of Freedom Zoning Ordinance be granted with the following condition:

1. Per plan dated 10/02/2013 titled Shorefront Improvement Plan of Lands of Richard F. Staples Trust.

The motion passed unanimously. The applicant was informed of the 30-day appeal period.

The letter to the Planning Board regarding tree cutting will be continued to the November meeting.

Niiler has volunteered to attend the Department Head meeting on October 28<sup>th</sup>.

Meeting adjourned at 9:07 pm.