

Zoning Board of Adjustment
PO Box 227
Freedom, NH 03836

Freedom Zoning Board of Adjustment: **December 15, 2014**

Members Present: Chairman Scott Lees; Karl Ogren; Craig Niiler; John Quigley, Alternate; Denny Anderson, Alternate.

Others Present: Linda Farinella, Recording Secretary

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

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

Chairman Lees introduced the Board to the public.

Motion by Chairman Lees, seconded by Ogren to accept the minutes of the November 25, 2014 meeting as written. The motion passed.

During the meeting the following cases were heard:

Case #24-6-1-14 Paul and Elizabeth Pappas

Case #22-28-14 Sandra M. Drea

Case #22-28-1-14 Sandra M. Drea

Vice-Chairman Niiler invited **Case #24-6-1-14 Paul and Elizabeth Pappas** 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 3 Table 304.5 of the zoning ordinance to install stone wall, replace stones at beach, replace brick patio, and add stepping stones all within the setbacks and requiring erosion control at 121 Haverhill Street.

Mr. Pappas and two representatives from Stoney Ridge Environmental approached the board. Stoney Ridge explained the new plan that was asked to be created and noted that an after-the-fact shoreland permit has been submitted. The silt fence location is shown on the plans. The applicant also explained the plans to replace existing stairs with new in the same footprint, do native plantings and the silt fence.

Vice-Chairman Niiler asked if the board's concern about adequate storm water management had been addressed. Stoney Ridge stated that there are two rain gardens and drainage around the drip edge of the home. The last few storms allowed no water to go to the lake. The variance request includes the patio, stairs and all work done within the shoreline.

Lees asked for confirmation that the proposed replacement stairs are in the same location. Stoney Ridge responded yes, and there will be no change in square footage. Lees asked if the patio is pervious, the answer is yes.

There were no comments from abutters or public.

Vice-Chairman Niiler closed the hearing to public comment.

The board reviewed the variance worksheet for Article 3 Section 304.5:

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 Vice-Chairman Niiler seconded by Quigley that based on the forgoing findings of fact, the requested Variance from Article 3 Section 304.5 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Necessary State of New Hampshire Environmental permits must be successfully obtained and submitted.
2. Shall conform per plan titled "ZBA Variance Proposed Conditions Plan Paul and Beth Pappasö dated November 6, 2014.

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 Vice-Chairman Niiler seconded by Ogren 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. Erosion control shall remain in place until project complete and site is stabilized.
2. Shall conform per plan titled "Special Exception Existing Conditions Plan Paul and Beth Pappasö dated November 6, 2014.

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

Chairman Lees recused himself from the following two Drea cases, Niiler took over as chairman. Anderson recused himself from the following two Drea cases.

Vice Chairman Niiler invited discussion of **Case #22-28-14 Sandra M. Drea** to approach the board with a continued request for an appeal for a variance under Article 4 Section 406 to construct a septic system or leach field within 125' of a wetland on Intervale Ave.

Mark McConkey, Agent, accepted the three member board. McConkey presented large plans stating they are the same as the small plans submitted by the deadline and sent in the board's packets.

Vice-Chairman Niiler reiterated the information requested at the October meeting

1. Confirmation/rectification of wetland area;

2. Alternate location of homes on both lots;
3. Show slopes, contours, elevation and fill.

McConkey stated that the plan presented takes all of those requests into consideration. The plan now contains smaller home at ~~24x38~~ versus ~~26x40~~. Storm water catch basins are proposed to consider concerns of effluent running onto abutter properties. The finished grade for the proposed homes has water directed away.

McConkey stated that the septic designs have been completed and includes a pathway for water to follow the slope of the land. The new homes with new septics will not affect neighbors. The tanks and fields do not meet the town requirements, but do meet the state requirements.

McConkey stated that the property owner Mr. Drea wanted to be here. Mr. Drea is not willing to do only one house as he has been paying taxes and association fees on two lots for years. Mr. Drea would consider asking for a variance to allow the homes to each be 17' from the center lot line.

Ogren asked if the wetlands had been re-addressed by Gary Flaherty. McConkey stated that Flaherty felt there was no need to come back to the site as he was in conformance. Vice-Chairman Niiler asked if the plan is stamped by Flaherty. McConkey responded no, but Flaherty submitted a letter stating the plan was acceptable. Ogren had hoped that the wetlands had been reviewed again because of the questions brought up at the last meeting.

Vice-Chairman Niiler asked for any abutter or public comments.

Scott Lees, abutter, stated that he hired Greg Howard one year ago to look at his property because he had notice significant changes in the land; from grassy areas to wet areas. Mr. Lees' leach field was constructed to meet the regulations in place at that time. Mr. Lees stated he will pay a wetland soil scientist to delineate and stamp the plan showing wetlands. Mr. Lees wanted to be assured that his land will not be re-contoured as a result of the proposed plan for the Drea lots.

Mr. Lees stated that the lots are not as buildable as thought. They think they are trying to do things to protect surrounding properties but I have a soil scientist with a differing opinion. Mr. Lees also questioned that the drywells will simply fill up and instead the site pollutants will go into the lake. Mr. Lees asked that the wording of "not formal" on the plan be noted.

McConkey explained that he has seen builders raise the lot but he does not want to see fill that would cause problems. There are clearly pins on the property that show that the plan lies correctly. McConkey stated he can get a stamp from a wetland scientist to appear on the plan.

McConkey stated that he would be happy to accommodate Mr. Lees with a buffer and change the drywell to a cistern. McConkey stated he will address these items and any other concerns of the board; he respectfully asked for a continuance.

Vice-Chairman Niiler questioned about cutting trees in wetlands. McConkey stated that on next months submission he will show a maintained vegetative edge with no contour or fill.

Vice-Chairman Niiler and Ogren both are concerned about the discrepancy in the wetland scientists' opinions. McConkey stated he will supply a wetland certificate and other supporting documentation.

Vice-Chairman Niiler required that variance requests would be necessary if the buildings were to be moved closer to the middle lot line and a plan showing the proposed vegetative buffer and preservation of natural area within all wetland areas. Vice-Chairman Niiler also expressed concern about the wetland delineation. McConkey will have plan stamped.

Ogren would like contours and grades of the lot on the plan; showing present conditions and what can be allowed to happen. Vice-Chairman Niiler also asked that the proposed driveways be shown.

Motion by Ogren, seconded by Quigley to continue this case to the January 2015 meeting. The motion passed unanimously.

Vice Chairman Niiler invited discussion of Case #22-28-1-14 Sandra M. Drea to approach the board with a continued request for an appeal for a variance under Article 4 Section 406 to construct a septic system or leach field within 125' of a wetland on Intervale Ave.

Mark McConkey, Agent, asked for a continuance of this case to the January meeting.

Motion by Vice-Chairman Niiler, seconded by Ogren to continue this case to the January 2015 meeting. The motion passed unanimously.

Chairman Lees and Anderson returned to the board.

The board received correspondence from the Board of Selectmen regarding Case #30-1-2-12 Walbridge. The applicant has not yet met the conditions of approval. The board will write a letter to the Board of Selectmen requesting that the appropriate enforcement action is taken.

Meeting adjourned at 8:32 pm.