

Zoning Board of Adjustment
PO Box 227
Freedom, NH 03836

Freedom Zoning Board of Adjustment: **June 23, 2015**

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

Others Present: Linda Farinella, Recording Secretary; Ned Hatfield, Zoning Officer

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 Niiler, seconded by Stephan, to accept the minutes of the April 21, 2015 and May 26, 2015 meetings as written. The motion passed.

During the meeting the following cases were heard:

Case #19-15-15 William Magro

Case #31-31-15 Kurt and Karen Damery

Case #32-31-15 Don E and Cheryl Harris Jr

Chairman Lees invited **Case #19-15-15 William Magro** to approach the board with a continued request for variances under Article 7 Sections 706.1 and 706.2: To construct a deck within the setbacks at 1016 Ossipee Lake Road.

Robert Rafferty, agent and abutter, told the Board that a new plan and appointment of agent form was submitted by the deadline.

Ogren noted that at the last meeting the setback math did not add up correctly. Rafferty explained that the deck will be 12' off the house, at 47' from the lot line. Niiler asked if it was re-measured. Rafferty responded no, the numbers came off the plan scale. Ogren noted what seems to be a 7' discrepancy between the old plan and the new submission. Chairman Lees calculated 52.6' - 12' necessitates a 9'6" variance; Chairman Lees also proposed that if approved a condition of verifying the measurement be done.

Chairman Lees proposed a 10' x 16' deck to minimize the front setback. Niiler, Ogren and Stephan concurred. Rafferty agreed with the change.

Rafferty explained that this plan shows the steps onto the deck. The steps will not encroach closer to the lot line than the side of the house.

Chairman Lees asked for abutter comments. Rafferty, abutter, stated he is in full favor of the project. There were no public or other abutters present for this application.

Chairman Lees closed the hearing to the public.

The board reviewed the variance worksheet for Articles 7 Sections 706.1 and 706.2:

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 Variances from Article 7 Sections 706.1 and 706.2 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Deck to be built no closer that 42øto the front lot line.
2. Deck to be built no further that 10øoff the existing front fascia of the house.
3. Stairs to be built no closer than 21øto the sideline and no closer than 5øto the corner of the house.
4. Applicant will provide revised plan showing 10øx16ødeck size and show distances re-measured with a tape for accuracy.
5. No building permit will be issued without review of the plan by a member of the Board.

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

Chairman Lees invited **Case #31-31-15 Kurt and Karen Damery** to approach the board with a continued request for variances under Article 3 Table 304.2 and Article 3 Sections 310.1.5 and 310.1.6: To demolish existing home, construct a house and accessory garage within the setbacks exceeding the allowed 10% lot coverage at 16 North Broad Bay Road.

Kurt and Karen Damery and Ray Desmarais explained the new plans presented. Desmarais explained that they have foregone changing the garage, it will remain as is. The house has been moved back away from the road as suggested at the last meeting; still at the same distance from the left boundary as the original house. The bulkhead being the only access to the basement has remained. The square footage has been re-calculated and is less than the original request.

Chairman Lees reviewed the discussion at the May meeting. Chairman Lees noted that the lot coverage request on the original application was for 21.7%. The applicant is now asking for 17.5% on the revised plan, which is .5% more than the original lot coverage of 17%. Chairman Lees did not expect a smaller request and can accept the .5% increase. Chairman Lees stated he is considering a condition of no further construction on the lot.

Ogren was please with the minimal lot coverage increase; Niiler feels the applicant has addressed the spirit of the ordinance. Stephan is fine with the percentage and Anderson agrees with Lees regarding no further construction. Ogren suggested that noting the fact that the board discussed no further construction in the finding of facts rather than a condition.

Chairman Lees asked for abutter or public comment, there were none.

Chairman Lees closed the hearing to the public.

The board reviewed the requests for variances of Article 3 Section 304.2.

House: 20ø from the front

14ø from the west side

24ø from rear

Bulkhead: 16ø from rear

The board reviewed the variance worksheet for Article 3 Section 304.2:

1. 5 to 0

2. 5 to 0

3. 5 to 0

4. 5 to 0

5Ai. 5 to 0 Chairman Lees commented that the applicant is working with existing lot and it is an improvement of the existing.

5Aii. 5 to 0

The applicant asked to comment. Chairman Lees recognized the applicant. The stairs to enter the house are not noted on the plan. The set on the rear will not be any closer to the lot line than the bulkhead and the front step will be one foot closer to the front lot line than the house.

Motion by Chairman Lees seconded by Stephan that based on the forgoing findings of fact, the requested Variances from Article 3 Section 304.2 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Applicant will provide a revised plan showing front and back steps.

2. Construction shall be no closer than:

House: 19ø from the front line

14ø from the west side

24ø from the rear

Bulkhead: 16ø from rear

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

The board reviewed the variance worksheet for Article 3 Section 310.1.5:

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 Chairman Lees seconded by Anderson that based on the forgoing findings of fact, the requested Variance from Article 3 Section 310.1.5 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Per plan titled "Plan of Land prepared for Karen L. and Kurt M. Dameryö signed and dated 06/26/15.

2. Lot coverage of 17.5% as per submitted calculations.

The motion passed unanimously. The applicant was informed of the 30-day appeal period. Motion by Ogren, seconded Chairman Lees to recess for two minutes at 8:25pm. The motion passed unanimously. Chairman Lees re-opened the hearing at 8:27pm.

Chairman Lees invited **Case # 32-31-15 Don E and Cheryl Harris Jr** to approach the board with a request for special exceptions under Article 3 Sections 304.6.5.2, 304.6.5.4 and 304.6.4; and variances under Article 3 Sections 310.1.5, 304.2 and 304.5 to remove existing cottage and construct house and garage within the setbacks exceeding the allowed 10% lot coverage; requiring tree removal and erosion control within the shorefront at 45 East Danforth Road.

Paul King, Agent and Dave Pelton explained that the applicant's plan included removal of the existing summer cottage and construction of a new structure that mostly follows the existing footprint and the addition of a separate garage by the road.

King explained the three special exception requests. The project meets the tree removal requirements within 75' and meets the requirements beyond 75'. The erosion control plan includes an infiltration trench as per NHDES recommendations.

King explained the three variance requests. The detached garage is close to the road because of the steep slope of the lot and close to the side line because of the leach field. The proposed house meets the old footprint with the exception of one side that did not have an overhang. The new construction would allow for a 12' overhang around the entire house. The proposed house and the pump house meet the 10% rule but the garage would bring the lot coverage to 11.4%.

Niiler asked if any increase in the house is non-conforming. King responded only the additional overhang. The 3-season porch shall be incorporated into the house. Niiler stated that he appreciates the attempt to not increase the non-conformity; the tree cut looks good; very impressed with the infiltration trench. Niiler asked if the stairway is included in the lot coverage. King responded not for lot coverage but yes for setbacks.

Chairman Lees, Stephan and Anderson all agreed that the variance for the eave is reasonable.

King stated that the proposed house is 1,576 square feet which equals 7.9% lot coverage. The pump house is 23 square feet which equals .1% for a total of 8% lot coverage. The garage would cover 676 square feet at 3.4% lot coverage. The total coverage would be 11.4%. Ogren questioned the 1,375 square feet number on the plan and tried to replicate the number stated.

Chairman Lees stated he is not in favor of the garage because it infringes on the side and front setbacks and no hardship is shown. Niiler and Stephan agreed that a garage is a reasonable request adding it seems logical to center it and position it further from the road, this would require only one variance. Anderson struggles with the double garage request; with a single garage request the need for the sideline variance is gone. Ogren struggles with the garage request.

King suggested moving the garage back to the 444 contour line with a 6' high back foundation wall. The 24'x24' garage would then be 23' from the road and 30' from the sideline.

Chairman Lees stated to the applicant that the board would need a revised plan showing square footage of building and relocation of the garage. Chairman Lees asked that the plan clarify that the impervious areas listed are for state requirements, not for the town.

King asked for conditional approval of the application. Chairman Lees suggested waiting on any approvals until all changes are shown on one plan. The board members agreed.

Chairman Lees asked for abutter or public comments, there were no abutters or public present.

Motion by Chairman Lees, seconded by Ogren to continue this hearing until the July 28th meeting with a submittal date of July 13th. The applicant shall submit revised plans and a paper showing the square footage calculations. The motion passed unanimously.

Niiler updated the board about an issue at Camp Cody regarding placement of the new septic system on June 18th. The system upon installation needed to be moved to within 125ø of wetlands. The camp was opening on the 21st.

Hatfield and Babine were notified by Jim Rines of White Mountain Survey of the need for placement at 115ø from wetlands. Hatfield and Babine asked Rines to contact Niiler. Niiler expressed that he would rather hear from the building department over the applicant in the future.

Chairman Lees asked Hatfield to verify the following:

1. Is the septic tank installed;
2. Is it in violation of the 125ø wetland setback;
3. And, was permission given by anyone in the town; if not, the camp needs to present an after-the-fact application.

Meeting adjourned at 9:38 pm.