

Zoning Board of Adjustment
PO Box 227
Freedom, NH 03836

Freedom Zoning Board of Adjustment: **July 28, 2015**

Members Present: Jake Stephan; Denny Anderson, Alternate; Tim Cupka, Alternate; John Quigley, Alternate

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

Chairman Lees called the meeting to order at 7:03 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.

Acting Chair Stephan explained that the board is four members tonight. Each applicant is entitled to a five member board. If an applicant would like to continue their hearing they may do so without prejudice.

Motion by Quigley, seconded by Cupka, to accept the minutes of the June 23, 2015 meeting as written. The motion passed.

During the meeting the following cases were heard:

- Case #32-31-15 Don E and Cheryl Harris Jr.**
- Case #23-36-15 Tom Perates**
- Case #21-1-1-15A Camp Cody, Inc.**
- Case #23-1-2-15 Creig and Mary Wienki**

Chairman Lees invited **Case # 32-31-15 Don E and Cheryl Harris Jr.** to approach the board with a continued 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 and Dave Halpin, agents, explained the changes made to their application. The garage was moved over to meet the 30' setback and allow for a walkway also within the setback. The applicant will no longer be asking for a sideline garage variance. The garage was moved back from the road to the contour line of 444' as suggested. The dimensions of the building were also clarified. The impervious surface coverage will be 12.27% of the lot.

King explained that the tree removal changed because of the moving of the garage, adding that the cut still meets the 100 point requirement.

Cupka asked if the request of the board from last month were met. King explained that the garage is out of the setback and moved away from the road and a lot coverage clarification was submitted. Stephan asked if the plan clarified that the impervious areas listed are for town requirements, not for the state. King responded yes.

There were no abutters or public present.

Acting Chair Stephan closed the hearing to the public.

The board reviewed the special exception worksheet for **Article 3 Section 304.6.5.2** ó Tree removal within 75ø of the shorefront:

A. 4-0 J. 4-0
C. 4-0 K. 4-0
H. 4-0 L. 4-0

Motion by Acting Chair Stephan seconded by Quigley that based on the forgoing findings of fact, the requested Special Exception from Article 3 Section 304.6.5.2 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Shall conform to plan titled õPost Construction Conditions Plan of Land in Freedom, NH Property of Don E. and Cheryl J. Harrisö with a revision date of 07/09-2015.
2. All necessary State and local permits shall be successfully obtained.
3. Tree stumps not within footprint of structure shall remain.

The motion passed unanimously.

The board reviewed the special exception worksheet for **Article 3 Section 304.6.5.4** ó Tree removal within 75ø-300ø of shorefront:

A. 4-0 J. 4-0
C. 4-0 K. 4-0
H. 4-0 L. 4-0

Motion by Acting Chair Stephan seconded by Anderson that based on the forgoing findings of fact, the requested Special Exception from Article 3 Section 304.6.5.4 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Shall conform to plan titled õPost Construction Conditions Plan of Land in Freedom, NH Property of Don E. and Cheryl J. Harrisö with a revision date of 07/09-2015.
2. All necessary State and local permits shall be successfully obtained.
3. Tree stumps not within footprint of structure shall remain.

The motion passed unanimously.

The board reviewed the special exception worksheet for **Article 3 Section 304.6.4** ó Erosion control:

A. 4-0 J. 4-0
C. 4-0 K. 4-0
H. 4-0 L. 4-0

Motion by Acting Chair Stephan seconded by Quigley that based on the forgoing findings of fact, the requested Special Exception from Article 3 Section 304.6.4 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Shall conform to plan titled õPost Construction Conditions Plan of Land in Freedom, NH Property of Don E. and Cheryl J. Harrisö with a revision date of 07/09-2015.
2. Erosion control measures shall be installed prior to construction and shall remain in place until site is stabilized.

The motion passed unanimously.

The board reviewed the variance worksheet for **Article 3 Section 304.2** ó Construction within the front setback:

1. 4 to 0
4. 4 to 0
2. 4 to 04Ai. 4 to 0
3. 4 to 04Aii. 4 to 0

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

1. Drip edge shall be installed along roofline.
2. Roof shall be pitched to shed water toward the sideline of the property.
3. All necessary state and local permits shall be successfully obtained.
4. Shall conform to plan titled "Post Construction Conditions Plan of Land in Freedom, NH Property of Don E. and Cheryl J. Harris" with a revision date of 07/09-2015.
5. Garage shall be no closer than 23' to the front boundary.

The motion passed unanimously.

The board reviewed the variance worksheet for **Article 3 Section 304.5** ó Construction within the rear yard setback:

1. 4 to 0
2. 4 to 0
3. 4 to 0
4. 4 to 0
- 4Ai. 4 to 0
- 4Aii. 4 to 0

Motion by Acting Chair Stephan seconded by Cupka 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. Home shall not come closer than 61' to the water.
2. All necessary state and local permits shall be successfully obtained.
3. Shall conform to plan titled "Post Construction Conditions Plan of Land in Freedom, NH Property of Don E. and Cheryl J. Harris" with a revision date of 07/09-2015.

The motion passed unanimously.

The board reviewed the variance worksheet for **Article 3 Section 310.1.5** ó Exceed allowable 10% lot coverage

1. 4 to 0
2. 4 to 0
3. 4 to 0
4. 4 to 0
- 4Ai. 4 to 0
- 4Aii. 4 to 0

Motion by Acting Chair Stephan seconded by Cupka 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. All necessary state and local permits shall be successfully obtained.
2. Shall conform to plan titled "Post Construction Conditions Plan of Land in Freedom, NH Property of Don E. and Cheryl J. Harris" with a revision date of 07/09-2015.

3. Lot coverage shall not exceed 12.27%.
The motion passed unanimously.

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

Acting Chair Stephan invited **Case #23-36-15 Tom Perates** to approach the board with a request for a variance under Article 3 Table 304.2 to construct an addition within the front and sideline setbacks at 11 Oak Street; Tax Map #23 Lot #36.

Anderson recused himself from voting as he is on the Mountview Property Owners Association board.

Acting Chair Stephan told the applicant he has a 3-member board now but is entitled to have a 5-member board. Mr. Perates chose to move forward with the 3-member board.

Mr. Perates proposed to add a 10x26 addition on the left side of the current home. The addition would be within the left and front setbacks on a non-conforming lot. There will be no trees removed and there are no wetlands on the property. The reason for the addition is to make a large enough bathroom for a handicap child. Mr. Perates tried to put the addition out the back of the home, but the utilities are all located at the front of the house.

Anderson asked if the house is approved for a two-bedroom septic. Mr. Perates answered that it is approved for a three-bedroom septic. Mr. Perates added that Mountview has already approved their application.

Acting Chair Stephan asked why this is not being built on the other side of the house. Mr. Perates replied that the porch is on that side and the utilities are on the side where the addition is planned. Acting Chair Stephan explained the need for a hardship when granting a variance.

There were no abutters or public present for this application.

Cupka stated no problem with the plan but is looking for a hardship that the town would accept. Cupka also hoped to have had letters from the abutters stating no concern.

Acting Chair Stephan closed the hearing to the public.

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

- | | | |
|-----------|-------------|-----------|
| 1. 3 to 0 | 4. 3 to 0 | 5bi. 3-0 |
| 2. 3 to 0 | 5Ai. 1 to 2 | 5bii. 3-0 |
| 3. 3 to 0 | | |

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

1. All necessary state and local permits shall be successfully obtained.
2. Construction shall conform to plan titled "Perates 11 Oak Street" signed and dated 07/28/2015.
3. Addition shall be no closer than 8' to property line.

The motion passed unanimously. The applicant was informed of the 30-day appeal period. Anderson joined the board as a voting member.

Acting Chair Stephan invited **Case #21-1-1-15A Camp Cody, Inc.** to approach the board with a request for a variance under Article 4 Section 406 to permit a pump chamber to be placed less than 125ø from a poorly drained wetland at 9 Cody Road; Tax Map #21 Lot #1-1.

Jim Rines, agent for Camp Cody, Inc., from White Mountain Survey and Engineering, accepted to continue with the 4-member board. Rines explained the request for a variance to place a pump chamber 113ø from poorly drained soils. This is an after-the-fact request. The camp built 9 cabins in sixty days. The Planning Board had given some leeway with the locations and in the haste to finish before camp opening the location of the construction had painted them into a corner.

Rines explained that when the situation was realized contact was made with the Zoning Officer, Building Inspector, NH DES and Vice-Chairman Niiler. Rines apologized for the after-the-fact request adding that the location is within 90% of the town's requirements and double the minimum of the state.

Rines reviewed from the application submitted the criteria for a variance.

Acting Chair Stephan asked Rines if the joints were sealed upon installation. Rines replied yes, tanks were sealed and grouted and with the use of stainless steel screws.

Acting Chair Stephan asked for any abutter or public comments.

Mark McConkey, public, stated that as a designer this issue is run into time after time. McConkey hopes that the board would consider changing the 125ø requirement to mirror the State of NH standards.

Acting Chair Stephan closed the hearing to the public.

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

- | | |
|-----------|--------------|
| 1. 4 to 0 | 4. 4 to 0 |
| 2. 4 to 0 | 5Ai. 4 to 0 |
| 3. 4 to 0 | 5Aii. 4 to 0 |

Motion by Acting Chair Stephan seconded by Quigley 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 condition:

1. Shall conform to plan titled "Individual Sewage Disposal System Cabin Pods A & B Plan and Details Gailan Drive and Pahaska Pathway" dated 04/02/2015 with revision date 06/22/2015.
2. All necessary state and local permits shall be successfully obtained.
3. Chamber shall be no closer than 113ø to wetlands.

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

Acting Chair Stephan invited Case #23-1-2-15 Creig and Mary Wienki to approach the board with a request for a variance under Article 3 Table 304.2; and special exceptions under Article 3 Sections 304.6.4.1 and 304.6.5.2 to construct a 3-bedroom home within the setbacks with an attached 1-bedroom accessory apartment and a garage necessitating tree cutting and erosion control on Haverhill Street; Tax Map #23 Lot #1-2.

Mark and Dale McConkey with the applicants Creig and Mary Wienki explained their application request to build a home within the sideline setbacks. Mark McConkey noted that the home has an energy efficient system that will necessitate walls at almost one foot thick. The location of the house will be in keeping with others in the neighborhood and all neighbors are in favor of the granting of a setback variance, noting letters of support submitted by abutters Zammitti and Ray. No views will be impaired by travelers or neighbors.

The main request is for sideline variance requests to build 7ø into the setback on one side and 4ø into on the other. Tree cutting within the two grids will still have 100 points after proposed cuts. McConkey noted that erosion control is shown on the plan. Overhangs are included in the calculations and the lot coverage is 9.2%. There will be an 800 square foot apartment above the attached garage which meets the zoning requirements.

Acting Chair Stephan reviewed the tree cutting grids and felt they looked good.

Anderson asked why the house is not turned to meet the setbacks. McConkey responded the applicant wants to take advantage of the view of the lake. Anderson suggested that the same amount of square footage could be achieved without building within the setbacks.

Cupka asked if the house is a modular. Wienki responded that it is constructed off site.

Acting Chair Stephan asked how many stories the home will be. Wienki responded two. Acting Chair Stephan asked if the applicant has thought of other ways to place the home that would at least meet one of the side setbacks.

McConkey reiterated that this would be in keeping with the neighborhood and feels that the request is reasonable because the hardship is the width of the lot.

McConkey asked to speak privately with his client.

McConkey requested that this hearing be continued to next month. The applicant would like to speak with their builder.

Anderson noted that the plan shows 4-bedroom home in spot and 3-bedroom in another. McConkey stated it is a 3-bedroom with 1 bedroom apartment, it will be corrected.

Motion by Acting Chair Stephan, seconded by Cupka to continue this hearing to the August 25th meeting with an August 10th deadline. The motion passed unanimously.

The board reviewed the plan submitted for Case #19-15-15 as per the condition of approval. It met the conditions.

Meeting adjourned at 9:34pm.