

Zoning Board of Adjustment
January 28, 2020
Minutes

Members Present: Scott Lees, John Krebs, Craig Niiler, Jake Stephan, Denny Anderson (A), John Quigley (A)

Members Absent: Karl Ogren, Tim Cupka (A)

Others Present: Janice Zecher, Recording Secretary, Don Harris, Zoning Officer

Meeting called to order at 7:00pm by Scott Lees. Scott introduced the board members to the public, and explained the rules and procedures. There was a quorum present of 5 members.

The minutes from December 17, 2019 were reviewed by the board. A motion was made by Scott to accept the minutes as written, seconded by Denny. After the initial minutes were written, a transcript of the recorded meeting with Linda Worthen for Case # 38-3-3-19 was typed. These will be added to the minutes. Review of this transcript was tabled until John Ratigan, counsel for the Town of Freedom arrived at the meeting. continued to the February meeting so the board will have time to review them.

Case # 26-5-19 The View at Lake Ossipee Family, LLC *Continued from January*

Applicant seeks an appeal for a Variance under Article 3, Table 304.5 and Article 7, Section 706.2, side setbacks, A Variance under Article 3, Section 304.6.6.2(a), Maintenance of a Waterfront Buffer (D) (iv) Segment point total must equal or exceed 100 points. Special Exception under Article 3, Section 304.6.4.1 Erosion Control, A Special Exception under Section 304.6.6.4, tree cutting greater than 12.5% slope between 75 and 300 feet of reference line, A Special Exception under Section 304.6.7.3, Exceeds 10% impervious area on lot of record at 7 Cone Drive. The applicant wishes to add one bedroom, one bath, den storage, and unfinished second floor, Map 26, Lot 5.

Ken Jones approached the board to review changes and updated plans. John Quigley recused himself from this case. Denny Anderson will sit in as a voting member for Karl Ogren.

It was noted that the numbers on the grids do not match the numbers on the plot plan. Scott asked the board if they had any questions regarding setbacks, erosion control, the board had none.

There were no abutters present, and no questions or comments from the public.

Mr. Jones was asked to review the plan and tables, make corrections to ensure the two documents agree and resubmit for the February meeting. He does not need to attend the meeting.

A motion was made by Scott, seconded by Jake to continue this application to February, 2020. All were in favor.

Case # 38-3-3-19 Linda Worthen

Applicant seeks a rehearing on her Appeal for an Administrative Decision that was denied at the January 28, 2020 meeting. This application is regarding the rescission of a building permit issued on October 24, 2019 to build a deck at 28 Houle Drive. Deck is being built within common area of condominiums. Map 38, Lot 3-3.

This is a transcript of the recorded session.

Lees: Applicant seeks an appeal pursuant to RSA 677:2 This is in regard to an appeal for Administrative Decision regarding the withdrawal of a building permit issued October 24, 2019. The building deck at 28 Houle Drive. The deck is being built within the common area of the condominiums at Map 38, Lot 3-3. The ZBA heard the appeal at their meeting on December 22, 2019 and voted to uphold the decision of the Board of Selectmen to rescind the building permit. OK. So, on this case, Jake will not be a voting member, we are not going to take any input from the applicant or from the public, or any abutters. I make a motion to start deliberating the request for a rehearing. So, what we have is a letter from the applicant's attorney, Mr. Sager dated January 15, 2020 with items for request for a rehearing. Is there anything in this letter that the board feels may change how they would vote. So if that is true, we would grant approval, and then move forward with rescheduling a hearing, or if, after hearing this, you feel that it did not change your decision, then the decision that we made in December would stand.

Anderson: For me, I have seen nothing that would change my vote on the issue because when I look at the plans, the homes that were approved to have a deck or a garage or whatever, are already shown on those plans. And a deck is not shown for this particular unit. And I don't feel that, my mind hasn't been changed. Let's put it that way.

Lees: Alright.

Niiler: There's two authority structures here...the condo owners have to agree on what they will allow, but then the town also has to agree because it is a condominium property, it's not the same as a regular lot of record might be. So, they would have to go back to the Planning Board just to revise the plan. It seems that this is the correct way to do this.

Lees: I agree with that. I think we have talked about at the last meeting. But I agree with both of those statements. Anyone else?

Stephan: I feel the same way.

Quigley: I agree. It's not up to us.

Stephan: It is the Planning Board

Quigley: The Planning Board

Lees: Alright

Krebs: Are you looking for a motion?

Lees: No, we already have a motion.

Krebs: No, we don't

Lees: We have a motion to (muffled)

Krebs: I think we have a motion..and explain why..the basis for the motion?

Lees: Sure

Krebs: So, I guess for me, I move to deny the request for the rehearing for two reasons. One is that there's two levels of approval required to allow for such an expansion, one is the State of NH Condominium Law which is RSA 356, which I think can be remedied. And one is a requirement for a Planning Board approval to any modifications of the originally approved plans, which has not happened. Neither of those have happened. And then the second is that the deck structure is obviously located in the limited common area where it wasn't permitted on the original plan that was reviewed and approved by the Planning Board. So that was the two reasons that. And thirdly, no new information has been provided to change the decision that we made a month ago. That's my motion.

Lees: A second to the motion? John (Quigley)

Quigley: I agree with John (Krebs). Nothing has changed.

Lees: OK, Denny?

Anderson: I agree.

Lees: All those in favor, signify by saying Aye....(Aye's heard).Opposed? (none)

Lees: So, we have upheld our decision, and I guess the feeling from the board is the better approach would be to back before the Planning Board to amend the Planning Board's approval. So, you can do that for condominium documents. And show that, the amendment being the construction you would like to add to your unit.

Worthen: Ok.

Lees: And, I believe that is it. Does anyone have any questions for us?

Worthen: No, we will just have Richard Sager follow through with it.

Lees: I'm sorry, I don't hear so well.

Worthen: I'll have our attorney follow through with it. I recorded it for him so he can hear it.

Lees: Alright. Very Good. Well, I guess there is nothing else. That is it for the items on the agenda for this evening.

Krebs: We have already tabled the minutes right?

Lees: Until next month

Unfinished Business - None

New Business

Communication and Miscellaneous - None

There being no further business, a motion to adjourn was made by Scott, seconded by Karl.
Meeting was adjourned at 9:00 pm.

Respectfully Submitted,

Janice Zecher