

Zoning Board of Adjustment
December 17, 2019
Minutes

Members Present: Scott Lees, John Krebs, Karl Ogren, Denny Anderson (A), John Quigley (A)
Members Absent: Jake Stephan, Craig Niiler
Others Present: Janice Zecher, Recording Secretary, Don Harris, Zoning Officer, Anne Cunningham, Les Babb

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. Denny Anderson-Alternate will sit in for member Jake Stephan, John Quigley-Alternate will sit in for member Craig Niiler.

The minutes from November 27, 2019 were reviewed by the board. A motion was made by John Quigley to accept the minutes as written, seconded by Scott Lees, all were in favor.

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

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.

This application is being continued to January as requested by the applicant at the November meeting.

Case # 42-16-19 Kevin & Laurie Eisener *Continued from November*

Applicant seeks an appeal for a Variance under Article 3, Section 304.2 and side setbacks at 23 Old West Ossipee Road. The applicant wishes to build a 28' x 28' one story garage on an empty lot, Map 42, Lot 16

Mr. & Mrs. Eisner approached the board and reviewed the application and changes made since the November meeting. There were no members of the public or abutters present wishing to speak to this application. John Krebs would like a Licensed Land Surveyor certify either the slab or the footings. Mr. Eisner said he was told he needed footings. The board had no further questions,

The board reviewed the **Variance Worksheet for Article 3, Section 304.2** as it pertains to setbacks.

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|----------------|------------------------|
| 1. Carried 5-0 | 4. Carried 5-0 |
| 2. Carried 5-0 | 5. A. (i) Carried 5-0 |
| 3. Carried 5-0 | 5. A. (ii) Carried 5-0 |

Summary of the facts of the case discussed at the public hearing:

- 1. Applicant owns the lot across the street.**
- 2. Large long narrow lot.**
- 3. Storage only will be above the garage.**
- 4. Building will be 19 feet from the sidelines.**

Based on the foregoing findings of fact, the requested variance from **Article 3, Section 304.5** as it pertains to front setbacks in the Town of Freedom Zoning Ordinance be granted with the following conditions:

- 1. Per plan titled “Plan of Eisener” dated “Received 12/2/19”.**
- 2. Certified on both side footings and slab, a letter from a licensed landscaping surveyor to be submitted.**

Case # 38-3-3-19 Linda Worthen

Applicant seeks an Appeal for an Administrative Decision 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.

Linda Worthen was accompanied by Robert Trepsas who said he would be addressing the board on her behalf. Mr. Trepsas reviewed the appeal and presented his understanding of the chain of events.

Scott Lees asked why the permit was rescinded and Mr. Trepsas responded that he and Ms. Worthen were not privy to that information.

Scott read the letter from the Zoning Officer rescinding the building permit. Scott asked Ms Worthen her if she was told why the town rescinded the permit. She said it was not clear to her why it was rescinded.

Ms. Worthen stated that she has read the condo documents and there is nothing in them that says it is not permissible. Mr. Trepsas read section 9.2 of the condominium documents and stated he believes they are in compliance per that section.

Public Comment: Sean White a member of the association spoke in favor of overturning the Selectmen’s decision. Robert Adam, Abutter spoke against overturning, Barry Rollins, abutter to the condominiums spoke against overturning. Anne Cunningham stated she was on the Planning Board when this project was approved. The Planning Board requested specific wording on the plot plan as it was their intent to ensure there would be no further development of this property. Les Babb spoke for

the Board of Selectmen, stating that common areas were not allowed to be used. Don Harris, Zoning Officer spoke in favor of overturning the Selectmen.

Scott Lees presented two choices to move ahead. Either continue the meeting to January to give the board more time to review. Denny Anderson would be in favor of continuing to January, the remainder of the board were in favor of finalizing their decision tonight.

Mr. Trepsas was given a final opportunity to speak. He feels that section 9.2 clearly gives him the right and he does not have to prove that he can build it. He feels it is the board's burden to prove he cannot build. Plus he was issued a permit. The Board of Selectmen overstepped their jurisdiction in rescinding his permit. Stated he was into the project for \$8,000. Scott explained that the state is very clear that decisions cannot be made based on anything financial.

John Krebs made a motion to uphold the Board of Selectmen's decision to rescind the building permit, seconded by Karl Ogren. The Zoning Board of Adjustment voted unanimously to uphold the decision of the Board of Selectmen to rescind the building permit.

Unfinished Business - None

New Business

- 2020 meeting dates were reviewed. The December meeting date will be changed to December 15th. The deadline will remain December 14.

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