

**Zoning Board of Adjustment
March 31, 2020
Minutes**

Members Present via Zoom: Scott Lees, John Krebs, Craig Niiler, Jake Stephan, Karl Ogren, Denny Anderson (A)

Members Absent: Tim Cupka (A) John Quigley (A)

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

Meeting called to order at 7:00pm by Scott Lees. Scott read the following statement:

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to the meeting. However, in accordance with the emergency order, this is to confirm that we are: a) providing public access to the meeting by telephone and by access with Zoom, b) All members of the board have the ability to communicate in this meeting through the Zoom platform. The public has access to listen and, if necessary participate in this meeting by dialing the number in the invitation. c) Providing the public with a mechanism to alert the public body during the meeting if there are problems with access. If the public is unable to access the meeting, we will adjourn the meeting and will have to reschedule it.

There was discussion surrounding the specifics of running and attending a meeting through Zoom. Members of the board who were present were introduced, and meeting process reviewed.

Minutes from February 25, 2020 were reviewed by the board. Karl noted that John Quigley's name was listed as both in attendance and absent. John was absent. A reminder to place the watermark "Draft" on the minutes. Page 4, where Craig Niiler recused himself, add "as a member of the public" at the end of the sentence. A motion was made by Karl to accept the minutes with revisions. Seconded by Craig. Vote was unanimous.

Case #27-3-20 Anthony & Darlene Fabrizio *Continued from February*

Applicant seeks an appeal for a Special Exception under Article 3, Section 304.6.4.1 Erosion Control, Variance under Article 3, Section 304.5, front and side setbacks, Variance under Article 7, Section 706.2 expansion of a non-conforming structure side setback, and Variance under Article 7, Section 706.3 Exceeding height of existing non-conforming structure. At Map 27, Lot 3, 427 Pequawket Trail.

Denny Anderson (A) will be a voting member for this application, sitting in for Craig Niiler. Craig recused himself from this application as he did for the February meeting. Requests made in the February meeting to add dimensions from the property line to the building and review tree cutting numbers to match were made to the updated plan. Guy Dixon, Architect for the applicant was present via phone and reviewed the updates. An update was also presented a correction of the comparison of the percentage of the actual square footage comparing the existing nonconformity to the proposed nonconformity. Karl asked what the height issue was. Guy explained that by adding a cupola to the

structure, they are adding to the height of the nonconforming building but will still not be exceeding the height limit. There were no further questions from the board. No abutters were present. Craig, spoke in favor of the project as a member of the public.

The board reviewed the Special Exception Worksheet for Article 3, Section 304.6.4.1 as it pertains to Erosion Control.

- A. Carried 5-0
- J. Carried 5-0
- C. Carried 5-0
- K. Carried 5-0
- H. Carried 5-0
- L. Carried 5-0

Summary of the facts of the case discussed at the public hearing: None

Based on the foregoing findings of fact, the requested Special Exception from Article 3, Section 304.6.4.1 as it pertains to erosion control in the Town of Freedom Zoning Ordinance is granted with the following conditions:

1. Per plan titled "Plan for Shoreland Permit in Freedom, NH property of Darlene and Anthony Fabrizio with a revision date as requested in condition #4.
 2. Erosion control shall be installed prior to any earth disturbance and shall remain in place until site is stabilized.
 3. Licensed Land Surveyor shall certify the location of the footings to be in accordance with the provided plan before the foundation is poured for the proposed garage.
 4. Approved plan (condition #1) must be a stamped and certified as a boundary line survey Plan signed by Paul King before the work any work starts.
 5. All state and local permits must be obtained prior to start of work.
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The board reviewed the Variance Worksheet for Article 3, Section 304.5 as it pertains to Front and Side Setbacks.

- 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: None

Based on the foregoing findings of fact, the requested Variance from Article 3, Section 304.5 as it pertains to Front and Side setbacks in the Town of Freedom Zoning Ordinance is granted with the following conditions:

1. Per plan titled "Plan for Shoreland Permit in Freedom, NH property of Darlene and Anthony Fabrizio with a received date of March 9, 2020.
2. Erosion control shall be installed prior to any earth disturbance and shall remain in place until site is stabilized.
3. Licensed Land Surveyor shall certify the location of the footings to be in accordance with the provided plan before the foundation is poured for the proposed garage.

4. Approved plan (condition #1) must be a stamped and certified as a boundary line survey Plan signed by Paul King before the work any work starts.
5. All state and local permits must be obtained prior to start of work.

The board reviewed the Variance Worksheet for Article 7, Section 706.2 as it expansion of a non-conforming structure

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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: None

Based on the foregoing findings of fact, the requested variance from Article 7, Section 706.2 as it pertains to expansion of a non-conforming structure in the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Per plan titled “Plan for Shoreland Permit in Freedom, NH property of Darlene and Anthony Fabrizio with a received date of March 9, 2020.
2. Erosion control shall be installed prior to any earth disturbance and shall remain in place until site is stabilized.
3. Licensed Land Surveyor shall certify the location of the footings to be in accordance with the provided plan before the foundation is poured for the proposed garage.
4. Approved plan (condition #1) must be a stamped and certified as a boundary line survey Plan signed by Paul King before the work any work starts.
5. All state and local permits must be obtained prior to start of work.

The board reviewed the Variance Worksheet for Article 7, Section 706.3 as it pertains to Exceeding height of existing non-conforming structure

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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: None

Based on the foregoing findings of fact, the requested variance from Article 7, Section 706.3 as it pertains to Exceeding height of existing non-conforming structure in the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Per plan titled “Plan for Shoreland Permit in Freedom, NH property of Darlene and Anthony Fabrizio with a received date of March 9, 2020.

2. Erosion control shall be installed prior to any earth disturbance and shall remain in place until site is stabilized.
3. Licensed Land Surveyor shall certify the location of the footings to be in accordance with the provided plan before the foundation is poured for the proposed garage.
4. Approved plan (condition #1) must be a stamped and certified as a boundary line survey Plan signed by Paul King before the work any work starts.
5. All state and local permits must be obtained prior to start of work.

Case # 38-08-20 Nancy & Tom Cristoferi

Applicant seeks an appeal for a variance under Article 3, Table 304.5 side setback of 10' variance. Applicant wishes to build a 3 car garage on the opposite side of the wetlands at Map 38, Lot 8, 15 Birchwood Shores Road.

The board verified that Mrs. Cristoferi had a prior application with the ZBA approved in August 2016. She reviewed the application with the board. She purchased the adjoining lot and merged the two in order to make her lot large enough to build a log cabin. There was an existing barn on the purchased lot that was torn down. Scott Lees asked who delineated the wetlands. Nancy said that she did based on the scale that was provided on the plan of the land. She verified that the State had not designated the wetlands because it does not show on the town tax maps. Denny asked how the wetlands were actually delineated. Nancy said she drew it. John Krebs was concerned that Nancy had drawn her new plan on a previous plan provided by White Mountain Survey & Engineering. Nancy responded that she paid for the plan and owns it. John would like to see the wetlands delineated and for **White Mountain Survey to** verify the setbacks on this plan. Denny would also like to see the wetlands drawn and verified before voting on the application. Jake was in agreement. John Krebs noted the stairs on the plan and asked if there was a living space planned for the second floor of the garage. Nancy said just a game room and office. John asked if there would be water and septic. Nancy said there would be a separate septic and they would use the existing water source. The plan needs to be prepared by a licensed land surveyor and a Wetlands Scientist needs to delineate the wetlands. Karl was in agreement and added that depending on how much area is delineated as wetlands, it could bring percentages into the application. John asked where the access to the barn will be, Nancy said it would be a separate entrance from Birchwood Shores Road. John said the driveway has to be shown on the plan. The septic and well need to be shown on the plan as well. Nancy said they will use the existing well. Scott was in agreement with all board requirements.

The board asked for abutters comments. Mark Morford said they will wait until the new information is submitted. Dorothy Morford asked if there should be a septic plan approved before construction. John Krebs verified they will need approval from the state. Dorothy Morford said they have already cut trees down and made a driveway.

Jim Rines from White Mountain Survey & Engineering was in the Zoom meeting for another application. Nancy was using his plan from the 2016 Log Cabin project. He said the wetlands would definitely qualify as jurisdictional wetlands. A wetlands scientist would have to delineate it. He said that it is a violation of state requirements for Nancy to be drawing on a plan that was stamped by another company. He suggested doing a tracing that shows the improvements that doesn't have his stamp on it, that would be more appropriate. Nancy understood.

John Krebs expressed a desire to deny the application without prejudice or withdraw the application. It will take several months to get the work done and he is not in favor of continuing the application for this amount of time. Scott made the recommendation to Nancy for her to withdraw the application. Nancy verbally withdrew her application. John Krebs a made a motion to accept the withdrawal with

the understanding they waive the application fee but not the notification fees to abutters and the newspaper. Seconded by Karl. All were in favor.

Case #24-9-17 Ronna Werner Revocable Trust

Applicant seeks an appeal for Variances under Article 7, Section 706.2, side setbacks, 706.3 exceeding height of a non-conforming structure, Article 3, Section 304.6.7.3 % of impervious surface. Special Exceptions under Article 3, Section 304.6.4.1 Erosion Control, and Section 304.6.6.2 tree cutting. Applicant wishes to demolish the existing home, replace with a new structure, no closer than the old structure to the front and side setbacks. Concrete walkway/boat ramp is being replaced in kind and in place setbacks. At Map 24, Lot 9-17, 151 Haverhill Street.

Mark and Jacob McConkey reviewed this application on behalf of Ronna Werner. Mark is going to apply for a wetlands permit to replace the boat ramp in place and in kind. Reason for removing trees is that the root structure runs underneath the existing cottage. Construction would compromise the roots. After reviewing calculations, it was noted that the Variance for Section 304.6.7.3, % of impervious surface was not needed. Discussion about the expansion of a nonconforming structure followed. If the existing structure is being demolished, there is no nonconforming structure remaining. The suggestion of the board was to either build further back to minimize setback issues, with no second story. There were no members of the public or abutters to speak to this application.

Scott would like to see the lot coverage numbers on the plan. Craig was not ready to vote on the boat ramp replacement now. If the applicant is going to demolish the boat ramp and rebuild, it would require current engineering. Mark said he would be happy to withdraw the application to replace the concrete walkway in kind, allow them to go through the wetlands permitting and bring it back to the ZBA. Craig would be more comfortable if the application were continued to allow for a new plan to be submitted, showing the boat ramp is not included, and for Mark to talk to his clients about moving the structure back at least 11 feet as it is going to be new construction.

Mark said he would request a continuance to speak with his clients and come back with a revised plan.

Final requests for the board are that the plan needs to show lot coverage for the structure, remove the boat ramp from the plan. Craig asked that if Mark returned to the ZBA in May looking for the same footprint, to show a reason that the house cannot be moved back. Karl made a motion to continue the application to May, seconded by John Krebs. All were in favor. Application was continued to May.

Case # 27-20-20 The Mogan Irrevocable Trust, Jeffrey & Deborah Mogan Trustees

Applicant seeks an appeal for a Variance under Article 3, Table 304.5, front & Side setbacks, and Special Exceptions under Article 3, Section 304.6.4.1 Erosion Control and Section 304.6.7.3 Impervious area requiring storm water drainage plan. Applicant wishes to build a garage 38' X 36' with two 5" overhangs on the 36' ends. At Map 27, Lot 20, 466 Pequawket Trail.

Jim Rines from White Mountain Survey presented the application. There will be no living space in the garage. After discussion between the board and Jim, the concerns of the board remain the size of the garage, the closeness to the road, and the commercial feel to the structure. The board asked Jim to go back to his client and see if they will reduce the size of the building. There were no members of the public or abutters present. Karl made a motion to continue the application to May, seconded by John Krebs. Application was continued to May.

Election of Officers: Motion was made by Karl and seconded by John for Scott Lees to remain Chair with Craig as Vice Chair. All were in favor.

Communication and Miscellaneous

John Krebs asked Jim Rines for clarification about the rules of an applicant altering a plan stamped and signed by a company. Jim said it is not an allowable practice. An applicant can point to the plan but cannot mark it up.

There being no further business before the board, Scott made a motion to adjourn, seconded by Craig. All in favor. Meeting was adjourned at 10:00 pm.

Respectfully Submitted,

Janice Zecher