

TOWN OF FREEDOM

A **PUBLIC MEETING** and **PUBLIC HEARING** of the
Freedom Planning Board will be held on
Thursday, June 18, 2020
at 7:00 p.m.

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04 and following the declaration of an emergency by the Chair of the Freedom Planning Board, , this Board is authorized to allow to meet electronically.

This meeting will be held at the Freedom Town Hall (16 Elm Street) and can also be accessed via zoom or telephone. Governor Sununu's emergency order limits the meeting of groups of more than 10 people. If you would like to attend the meeting in person, please call Janice Zecher at 603-539-6323 to reserve a space. Priority will be given to planning board members, the applicant, and attorneys, if attending.

To join the meeting via Zoom, please go to <https://us02web.zoom.us/j/83709575561> at the appointed time. If asked for a meeting ID, please enter 837 0957 5561

If you do not have internet access, please use this phone number: 929 205 6099. In addition, instructions for joining this meeting will be provided on the home page of the town of Freedom's website: www.townoffreedom.net.

If anyone wanting to join the meeting has a problem accessing the meeting, please call 603-539-3858 at the time of the meeting.

The meeting was called to order at 7 pm by Anne Cunningham. Present are: Paul Elie, Bill Elliott, Paul Olzerowicz, Les Babb, Anne Cunningham. Carol McIntire and Pam Keith, using the provisions of the governor's emergency orders to participate electronically, are present on Zoom. John Ratigan, Attorney and Melissa Donaldson, Recording Secretary are also present. Jeffrey Towle is absent.

PUBLIC MEETING

- Notice is hereby given in accordance with RSA 674:4 that an application for a minor subdivision for Ms. Linda Worthen, Map 38, Lot 3-3 has been submitted. The applicant is requesting a modification of the subdivision plan approved May 17, 2006. Upon a finding by the Board that the application meets the submission requirements of the Subdivision Regulations, the Board will vote to accept the application as complete and proceed with public hearing.

Atty Sager said that Ms. Cunningham should recuse herself because she has a conflict of interest due to her involvement with the Board of Selectman regarding the revocation, and a public comment to the Zoning Board opposing this proposal. He also mentioned that Selectman Babb should recuse himself because he has a conflict of interest. Ms. Cunningham read the RSA that discusses disqualification of a member of the Board and stated that she declined to recuse herself because her statements qualified under the exceptions clause of RSA 373:14,1. Mr. Babb chooses not to recuse also because he is able to make a decision on the facts of this application.

Attorney Sager submitted the application. The applicant has asked for a waiver from submitting the final plat for this application, specifically of section 6.11.e and 7.01. Attorney Sager explained he feels the waiver is applicable because of the hardship it would cause his client. This case is currently in Superior Court. Sager agreed that upon approval, they will supply a mylar. The 2006 plat is in the packet. 12/21/06 and 1/18/07 have great detail about the Planning Board discussion on the plan that was presented at that time. This would be a change to that plat.

Ms. Cunningham asked that the background documents included in the packet be put into the record.

Mr. Babb made a motion to approve the waiver in consideration of the permission given for site visits. Mr. Elliott seconded.

Elliot, Bill - yes

Elie, Paul - yes

Olzerowicz, Paul - yes

Babb, Les - yes

Keith, Pam - yes

McIntire, Carol - yes (seated for Jeffrey Towle)

Cunningham, Anne – yes

PUBLIC HEARING

- Linda Worthen Minor Subdivision Application (if application is voted as complete).

The hearing was opened at 7:17 pm and the process was outlined.

Attorney Sager thanked the Board for granting the waiver. He explained the application. Linda Worthen is looking to expand the deck on her property (Unit C). Under the condominium rules, if you are going to expand out of your common area into the condo common area, you need the association's approval. This has been done. Questioned, Atty Sager said the approval from the condo association was not unanimous.

The Code Officer initially issued a permit for the expansion of a deck. It met the requirements of the condominium documents. Paul Elie would like to know if this is an expansion or an addition. Attorney Sager said that there is a deck that has been removed and will be replaced by the new deck. What the Attorney spoke of as a deck is what Ms. Cunningham believes are stairs. Mr. Olzerowicz asked for an estimate as to how much larger the proposed deck is.

Robert Trepsas - lives with Ms. Worthen. The old deck was a 4'x4' platform with 3 steps in one direction and 4 steps going toward the beach. The new deck is 14'x14' and cuts off at an angle to an additional 120 sq ft +/- . Ms. Cunningham said it was proposed as 28 feet by 14 feet and calculated it to be 396 square feet.

Ms. Cunningham stated that she wanted to enter the understanding that the Planning Board had back in 2007 into the discussion. Randy Cooper, the original applicant's attorney, stated that the

expansion potential should be on the plans, and should be defined better. The plans need to be set up so that they will never change. On Page 15, letter from Randy Cooper stated 4 conditions. Condition C said to amend the condo documents to not allow any expansion beyond their current footprint. In May of 2007, this is the first appearance of the condition that speaks to the expansion. Repairs were to be allowed, but with the understanding that there would be no expansion. The planning board at the time was concerned about the condos' proximity to the water. Carol asked if this was too close to the abutter. (This is a condominium, so the common areas apply but setbacks do not apply.)

Les Babb was on the Planning Board at the time this was approved. He reviewed his preamble. As a Planning Board member he feels that he is not here to prevent people from doing stuff, but to help people find a way to do their projects without adversely affecting their neighbors or the Town. He feels that if the deck was only 9', it wouldn't affect the community and it would allow the owners utilization of their property. Ms. Keith feels that this is a good idea. Bill Elliot supports this also. He is concerned about 42" being allowed for the neighbor to walk through between the properties. Paul Olzerowicz wonders if the condo documents were amended as proposed back in 2007, would the Association have approved this? The approvals given originally were not on a deck of this size. The Condo Association documents did not have the follow through.

Attorney Sager is looking at the approved and signed plan from 2007. He reviewed the notes on the plan. He does not understand what regulation of the Town the applicant is not complying with by building this deck.

Ms. Cunningham brought a letter from the Fire Chief at the time, but this was his expectation from what was there at the time.

The Zoning Officer gave a permit under the section that speaks about the footprint. The footprint does not include a deck in lot coverage calculation. Paul Olzerowicz asked Attorney Sager about the wording of the decision that was included in his letter. He quoted only the portion that applied in this situation.

Paul Elie - the crowding on the shorefront was a concern for him when he saw it. Part of this deck is permeable and part is impermeable. There is a concern about runoff into the lake. He supports the suggestion of cutting back the size of the deck.

Ms. Cunningham would like to have a discussion about what the final size of the deck might be.

Abutters who are in favor are given the opportunity to speak.

The applicants requested a break to confer with their lawyer. This break was granted.

The meeting resumed at 7:54 pm.

Mr. Trepsas -in response to the concern about the 42" from Mr. Elliot, he showed that there is a 5' ROW or easement to Mr. Adam's lot. The easement narrows as the land slopes down. There is

4' at that end. It is only 42" because it has not been kept up. At the site visit, another owner, a fireman, stated that only 36" are required. There is no issue with the water that would come out of the jacuzzi. Regarding shortening the deck, this would not work because of the size of the Jacuzzi and the need to remove the cover.

Abutters who are against this application:

Barry Rollins – commented about the size of the original porch on the plat (by Alan Fall). The previous owners were denied a couple of years prior. There are currently 6 units, with another garage being built, and the possibility of another. This is going to be an ongoing problem.

Kevin Adam - (Ms. Cunningham repeated his statements due to difficulty with speaker volume).

- What was there was not a deck. It was stairs. The deck that is being proposed is much larger. Ms. Cunningham corrected her statement about the size calculation. It is 360 square feet.
- Second, approving a smaller deck will be a slippery slope. This will be the first of many further developments on the site. It would be a change to the plat and he is not in favor of that happening.
- Third - somebody spoke about the expectations of someone who is buying the property. He is speaking about the expectations of the current owners who are facing a project that could affect the value of their property.

Members of the public in favor – none

Members of the public against this application – none

The hearing was closed at 8:07 pm

Kevin is the owner of the abutting property. A smaller deck may not be in his interest. Les Babb asked if we are going to amend the plan.

Mr. Sager explained how condominiums are set up with common area and limited common area. Limited common area is used by the owner of the unit. Common area is used by all. There is no "easement". There is curtilage around the unit that is limited common area.

The public hearing was reopened at 8:12 pm, to include the comments that were just made, as well as the comments that are being made now.

Mr. Sager addressed Barry's concerns about opening the floodgates. The condo association controls what happens there. What was there before is not germane to what is before the Board tonight. There may be more decks in the future if the Board approves them. This will cause a change to the plat. The expectations of those living there being compromised....if the majority votes to allow an expansion, it can happen.

Ms. Cunningham asked if Attorney Sager is speaking about the conditions on the plat, and a deck being an expansion of the footprint in the zoning, that the condo association can overrule that. He does not understand what condition is being met.

Les Babb made a point of order that future considerations are not applicable to this project before us.

The applicants feel that all the requirements have been met.

Ms. Cunningham is concerned about a statement that was made by Attorney Sager in regards to people building decks in the future. Mr. Ratigan spoke to the fact that this application was filed prior to the changes in the Zoning Ordinance that were made in March.

Ms. Cunningham asked if we can change the approval on the plat to make it clearer. The new ordinance does apply to prospective applications.

Paul Olzerowicz asked about the authority of the condo association as opposed to the Town. He believes he heard that the Town will have to go to the Condo Association to ask for the bylaws.

The hearing was closed at 8:23 pm.

Les Babb spoke about approving an expansion of the limited common area by 9' on the East side. He feels that we need to leave enough common area to have access, and to allow enough room for Ms. Worthen to have her deck. Limiting the West side leaving a minimum of 5' of common area to Unit B is also suggested.

Paul O - is the interested party here to suggest the alternative to in regards to public safety? The public hearing is closed.

Les has proposed a deck that is 28' across the front, 9' deep. It would still have an angled side.

Paul Elie - This would reduce the plan from 360 to approximately 252 square feet (need to refine the numbers to have the slanted side). The shoreline protection act was to limit the impervious surfaces and permit new construction, while protecting water quality. He supports the reduced size.

Bill Elliot - concerned about the common area becoming limited common area. He is supportive of the reduced proposal. He is concerned about life safety and access to Unit B in the event of an emergency.

Pam Keith is opposed to the deck.

Carol McIntire agrees with the reduced size proposal.

Les Babb made a motion to approve the expansion of the limited common area for deck use on in the amount of 28' on the lake side of Unit C, 9' on the west side, and maintain the angles shown on the documents provided. This would be 9' perpendicular from Unit C towards the water. Paul Elie seconded.

Elliot, Bill- yes

Elie, Paul- yes

Olzerowicz, Paul - no

Babb, Les - yes
Keith, Pam - no
McIntire, Carol - no
Cunningham, Anne - yes

The conditions of approval:

The applicant must produce a new final plat signed by a NH licensed town surveyor showing the deck plan as approved tonight. The second condition shall be that the expansion of the limited common area is for deck use only. The condo association has approved the 360 sq ft deck. The condo association will need to change their vote to reflect the decision of the planning board for reduced deck size. Revise their approval of removal of common area to limited common area for what has been approved tonight

Condition 1 -

Elliot, Bill - yes
Elie, Paul - yes
Olzerowicz, Paul - yes
Babb, Les - yes
Keith, Pam - yes
McIntire, Carol - yes
Cunningham, Anne - yes

Condition 2

Elliot, Bill - yes
Elie, Paul - yes
Olzerowicz, Paul - yes
Babb, Les - yes
Keith, Pam - yes
McIntire, Carol - yes
Cunningham, Anne - yes

The application is approved, with modification and two conditions as listed above.

PUBLIC MEETING

- Review Minutes of April 16, 2020 – 3 corrections on page 5, last paragraph. Insert one space, add “b” to about, and remove “...?”. Pam Keith made a motion to approve, Paul Elie seconded.

Elliot, Bill - yes
Elie, Paul - yes
Olzerowicz, Paul - abstained
Babb, Les - yes
Keith, Pam - yes
McIntire, Carol - yes
Cunningham, Anne - yes

Susan Douglas - lot merger – Tax Map 000041 Lot 57 and Lot 60 - this will result in one lot, just over one acre. Pam Keith made a motion to approve, Les Babb seconded.

Elliot, Bill - yes
Elie, Paul - yes
Olzerowicz, Paul - yes
Babb, Les - yes
Keith, Pam - yes
McIntire, Carol - yes
Cunningham, Anne - yes

- Review Minutes of Master Plan public hearing of March 7, 2020 – delay until July
- Discuss priorities for proposing ordinance changes described in Master Plan - Master Plan recommendations - start a discussion in July. Review the recommendations and make notes.

Ms. Cunningham thanked Mark McKinley and Paul for setting this meeting room up.

A motion to adjourn was made at 8:54 pm by Les Babb, Paul O. seconded.

Elliot, Bill - yes
Elie, Paul - yes
Olzerowicz, Paul - yes
Babb, Les - yes
Keith, Pam - yes
McIntire, Carol - yes
Cunningham, Anne - yes

Respectfully submitted,
Melissa Donaldson
Recording Secretary