

**ZONING BOARD OF ADJUSTMENT  
P.O. BOX 227  
FREEDOM, NH 03836**

Freedom Zoning Board of Adjustment: **July 27, 2021.**

Present: Acting Chairman Karl Ogren, John Krebs, Denny Anderson (A), Jeff Fongemie (A), Tim Cupka(A), Zoning Officer Gary Williams, Recording Secretary Stacy Bolduc.

Absent: Jake Stephen, Chairman Scott Lees, Vice Chairman Craig Niiler

Public: Mark McConkey, Jacob McConkey, Mark Lucy from White Mountain Survey on behalf of Jim Rines, Ann Johnson, Jessica Eldridge, Arlene Knight, Carla McLaughan, Jennifer & David Hayes, Paul & Joy Nowak, Habitat for Humanity Rep.

During this meeting the following cases will be heard:

- Case 26-4-21 Eugene W. & Denise M. Lawnicki *Continued ?***
- Case 30-12-21 Richard J. & Debra L. Strott *Continued from June 27, 2021***
- Case 27-01-21 Ann Johnson**
- Case 19-35-21 Bridget A. Paula**
- Case 8-7-21 Heidi Jones**
- Case 33-38-21 Darlene C. Johnson & John Pisano**
- Case 25-10-21 The Caitlin Sackman Revocable Trust**
- Case 32-2-21 Troy and Stacy Fortier**
- Case 4-3-1-21 Carla J. McLaughan**
- Case 24-13-21 DJH Investments Trust**

Acting Chairman Ogren called the meeting to order at 7:00 p.m.

Ogren introduced the Board to the Public.

Notification of this meeting was published in the Conway Daily Sun and posted at the Freedom Town Office and the Freedom Post Office.

**Tim made the motion, seconded by Denny to accept the minutes of the June 22, 2021 meeting with the following amendments:**

**Change *Jacob* to *Jake***

**Pg. 2 replace “John Krebs came back to the table” with “John Krebs rejoined the board as a voting member”.**

**Pg. 2 last paragraph first sentence after driveway change the period to a coma and replace “if” with “and”**

**Pg. 8 replace “Melody” with “Melanie”**

**Pg.9 correct spelling of “cavoite” to “caveat”**

**Pg. 10 under Comments from the Board capitalize “King Pine” and correct spelling Camp Robin Hood.**

**Pg. 10 under John commented where it reads “ A lot has changed since he has moved here and not for the better” add “all” after not.**

**Pg. 10 second paragraph from the bottom replace “get into the future of this application” with “Amend the zoning ordinance to allow this use”.**

**Pg. 11 4<sup>th</sup> paragraph from the bottom remove “This case is continued”.**

*Pg. 11 at the bottom of the page add "to continue the case until July 27<sup>th</sup>" at the end of the motion. Pg.11 bottom of the page the last paragraph should read " John also reviewed the Taylors application that was just approved tonight and stated that there are a lot of things that are on tonight's plan that were not on the plan from 2017 that there are no approvals for including a large patio, a retaining wall, stairs, and an outdoor shower". Motion passed unanimously.*

### PUBLIC HEARING

Ogren invited Case 26-4-21, Eugene W. & Denise M. Lawnicki *Continued from May* to approach the board.

Applicant seeks a **Special Exception** under Article 3, Sections 304.6.5 as it pertains to tree cutting within 75' of ref line and tree cutting of 75' to 300' of a ref line greater than 12.5% and 304.6.3 as it pertains to erosion control. Applicant also seeks a **Variance** under Article 3, Sections 304.5 as it pertains to a setback to a ref line for a retaining wall as shown on the plan as B and C and the bathhouse, deck and, patio and side setbacks for a retaining wall as shown on the plan as A and B also the house and the patio the **Map 26 Lot 4, at 380 Pequawket Trail.**

Mark McConkey submitted a letter requesting The Lawnicki case # 26-4-21 be continued for one more month.

Ogren questioned if the applicant should submit a new application because this application has been continued for a couple of months and there were quite a few people that had an interest in this case.

Mark McConkey agent, stated the Lawnicki's were close to coming to an agreement about the building plan that they believe will be in harmony with the rest of the community and have requested a continuance for one more month.

**John made a motion to continue case # 26-4-21, Lawnicki until August 24<sup>th</sup> provide that the abutters are re-notified in accordance with the notice requirements and statute, motion seconded by Tim; Motion passed unanimously. The applicant does not need to submit a new application.**

Ogren invited Case #30-12-21 Richard J. & Debra L. Strott *Continued from June 27, 2021* to approach the board for the following requests:

Applicant seeks an appeal for a **Special Exception under Article 3 Section 304.6.3.2** for erosion control in the shorefront and **Article 3 Section 304.6.5.1** for Grid 8 tree cutting meeting the Special Exception standard.

The applicant also seeks an appeal for the following variances:

**Article 3 Section 304.2** side & front setbacks for house.

**Article 3 Section 304.5** (water side) setback house.

**Article 3 Section 304.2** side and front setbacks garage.

**Article 3 Section 304.5** rear (water side) setback garage.

**Article 4 Section 406** Septic closer than 125' to water (3 tanks and 1 field)

**Article 3 Section 305.6.5.3** Tree cutting over 75'on lots over 12.5% slope in SF not meeting score requirement.

**Article 9 Section 906.1** Expansion of Non-Conforming structure front setback house.

**Article 9 Section 906.2** Expansion of Non-Conforming structure side and rear setback house.

**Article 9 Section 906.1** Expansion of Non-Conforming structure front setback garage.

**Article 9 Section 906.2** Expansion of Non-Conforming structure side and rear setback garage.

**Article 9 Section 906.3** Expansion of Non-Conforming structure height increase garage.

**Map 30 Lot 2, at 23 Marjorie Point Rd.**

Agent's Mark and Jacob McConkey approached the board and explained this is a continued application and gave a synopsis of the conversation from last month and explained the following changes to the application.

- Changed proposed deck to 8'
- Added a jog to the addition to hold the existing garage setback of 3.26' for the proposed garage.
- Adjusted setbacks/lot coverage accordingly.

This is a private road and there are no objections to the proposed project. Discussion ensued around the scope of the project so Denny and Tim who were not present at the last meeting understand what the applicant wished to do. The homeowner's want to store their boat and tractor in the garage.

There were no abutters or public present to speak for or against this project.

Ogren stated he has no problem with the house or the septic system and explained further he wanted the garage to stay the same size and instead he sees a larger deck. He then asked members for their questions or thoughts. John stated the existing garage is 33.5' with the overhang x 28.50' and in his opinion is a bigger garage than what most people have been granted in the past. He agrees with Karl he has no problem with the stairs or the deck but the garage is a large expansion. John explained the proposed project is adding 6' in-depth and 9' in-width. The majority of the board agreed the garage is too big and it needs to be scaled back. Mark asked that the case be continued until August 24<sup>th</sup>. He will explain to the owners they need to scale down the garage and that the board is fine with the rest of the proposal.

**John made a motion to continue Case 30-12-21 until August 24<sup>th</sup>, motion seconded by Denny; Motion passed unanimously.**

Ogren invited Case# 27-01-21, Ann Johnson, to approach the Board with a request for a **Variance under Article 3 Section 304.5** front and sidelines do not meet the setbacks. Applicant wishes to build a 12'x 24' deck on the backside of the house. **Map 27 Lot 1, at 557 Huckins Rd.**

Ann Johnson and Jessica Eldridge came before the board and explained this is a 1974 mobile home that she has made improvements to and is now looking to improve the outside by adding a deck that would overlook the channel and it would be a second egress for safety. The bank is very steep in the back leading down to the water. Ogren asked what the deck would sit on? There is no request for erosion control on this application. Jessica stated sauna tubes.

There were no abutters or public present to speak against or for this project.

Ogren asked for questions from the board.

**Points discussed:**

The steepness of the bank and only front yard setbacks are needed.

**The board elected to review the Variance worksheet for Article 3, Section 304.5. for front yard setbacks.**

The ZBA has the power to authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

1. The variance will not be contrary to the public interest. **Carried 5-0.**
2. The spirit of the ordinance is observed if the variance is granted. **Carried 5-0.**
3. Substantial justice is done by granting the variance. **Carried 5-0.**
4. The value of surrounding properties is not diminished if the variance is granted. **Carried 5-0.**

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
- A. Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) No fair and substantial relationship exists between the general public purposes of the zoning ordinance provision and specific application of that provision to the property, and

**Motion Carried 5-0.**

- (ii) The proposed use is a reasonable one. **Motion carried 5-0.**

**Motion: Ogren made a motion that, based on the foregoing findings of fact, the requested from Article 3, Section 304.5 front yard setbacks of the Town of Freedom Zoning Ordinance be granted with conditions. Karl seconded the motion; Motion carried 5-0.**

**Conditions**

1. Per Plan dated 7/27/21
2. The stairs do not protrude beyond the right side of the house as it is viewed from Huckins Rd.
3. The deck does not extend any closer to the back left corner of the house than 14 feet.
4. The footing must be hand dug.

**Findings of Facts**

1. Very steep lot.
2. 2 front yard setbacks.

Ogren explained the 30-day appeal process. These Special Exceptions expire 7/27/23.

Ogren invited **Case 19-35-21, Bridget Paula**, to approach the Board. Applicant seeks an appeal for the following variances:

**Article 4 Section 406** the septic tank and leach field to be closer than 125' from wetlands and **Article 3 Section, Table 304.2** side setbacks for mudroom and deck. **Map 19 Lot 35, at 992 Ossipee Lake Rd.**

Ogren read a letter from Paul & Stacy DeBole stating they have no objection to the requested variance but they wanted to be ensured there is no danger of contamination of a water reservoir/cistern that would be within 140' to 150' of the proposed septic system (see attached).

Mark explained the application and stated the distance between the proposed septic and reservoir/cistern exceeds State standards. The proposed septic exceeds State setbacks but does not meet the town's setback requirement. Currently, the septic is between the house and the rock wall and sits below grade. The applicant also wishes to add a deck behind the home and add a small mudroom. Mark is seeking a variance for 13.06' for the stairs.

There were no abutters or public to speak against or for this application.

Ogren asked the board for their question or thoughts on this application.

John would like to see the acronym for double red oaks changed and delete the 14.54' and add 6.31' from the sideline to the bulkhead bump out on the proposed plan. With no further discussion, the board elected to review the Variance worksheet for **Article 4, Section 406** and **Article 3, Section, Table 304.2:**

The ZBA has the power to authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

1. The variance will not be contrary to the public interest. **Carried 5-0.**
2. The spirit of the ordinance is observed if the variance is granted. **Carried 5-0.**
3. Substantial justice is done by granting the variance. **Carried 5-0.**
4. The value of surrounding properties is not diminished if the variance is granted. **Carried 5-0.**
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
  - A. Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - i. No fair and substantial relationship exists between the general public purposes of the zoning ordinance provision and specific application of that provision to the property, and **Motion Carried 5-0.**
    - (ii) The proposed use is a reasonable one. **Motion carried 5-0.**

**Motion: Ogren made a motion that, based on the foregoing findings of fact, the requested from Article 4 Section 406 and Article 3 Section 304.2 of the Town of Freedom Zoning Ordinance be granted with conditions. John seconded the motion; Motion carried 5-0.**

**Conditions:**

1. **Per Plan dated 7/28/21 Plan titled Zoning Plot for Bridget A. Paula 2 Derby Road Watertown, MA 02472.**
2. **Delete 14.54' to the mudroom and add 6.31 from the sideline to the bulkhead bump-out.**
3. **Change the label for Double Oak trees.**
4. **Prior to pouring any concrete, a licensed surveyor shall certify the location of the footings for the mudroom is per the approved plan.**
5. **Obtain any State Permits that need to be obtained**

**Finding of Facts**

1. **Old House**
2. **No place else for the septic to go.**

Ogren explained the 30-day appeal process. This Variance/Special Exception expires 7/27/2023.

Ogren invited **Case # 8-7-21, Heidi Jones**, to approach the board.

Ogren read letters from Tom and Nancy Achenbach who live at 286 Eaton Rd. They are abutters to this property and have concerns about the lot being too wet and have had problems with runoff in the past. (See attached for letters).

Mark McConkey the agent, explained Heidi Jones has a potential sale for this lot to Habitat for Humanity. He explained further by State Standards a septic designer is allowed to delineate between poorly drained soil and very poorly drained soil for the purpose of a septic system. Knowing this proposed septic might be contentious with a couple of the neighbors, Mark brought in a wetland scientist Adam Doiron who mapped the edges poorly drained with red letter A numbered designations on both sides. Other points discussed:

- The proposed septic on the plan is placed as far forward on the lot that it can be.
- The house will go between the poorly drained area and meets all setbacks.
- There are iron pins all around the property.

- The variance needed is 84.81' from the field. The State standard is 75' and the town standard is 125'. The tank at its closest point will be 72.90' where the town standard is 125' for a new septic.
- This is a taxable piece of property.
- The properties in question for runoff sit much higher. Mark does not feel the water runoff is an issue.

**Ogren asked if there were any abutters in favor of the project who would like to speak. There were none.**

**Ogren asked if there were any abutters opposed to the project.**

Arlene Knight who lives on 274 Eaton Rd. expressed her concern about her basement filling up with water. She has sump pumps running now in her basement and is concerned this project would add to the problem further.

**There was no public who spoke out against this project.**

Karl asked Mark and Jake if there was anyway the septic could be moved further away from the wetlands? John did not feel moving it further away from the very poorly drained soil would help with the concerns the abutters expressed. The septic can't go anywhere else on the lot or it would be in the State right of way. John suggested turning the leach field 90° and push it to the southwest, so it would be further away from the poorly drained soil. Mark responded that would be closer to the neighbor's property.

Ogren reiterated the only thing the board has any say on is the septic system. Ogren questioned the septic size . John stated the size of the leach field is not going to address the water concerns the abutters have. There is an old dry well on the property that may have been used for agriculture at one time that will be discontinued.

In conclusion, though the board is sympathetic to the neighbor's concerns about water run-off it does not fall under this board's purview. It was agreed granting this variance is not going to have an effect on the water run-off problem as it meets all state setbacks.

The board elected to review the Variance worksheet for Article 3, Section 304.5:

The ZBA has the power to authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

- 1.The variance will not be contrary to the public interest. **Carried 5-0.**
- 2.The spirit of the ordinance is observed if the variance is granted. **Carried 5-0.**
3. Substantial justice is done by granting the variance. **Carried 5-0.**
- 4.The value of surrounding properties is not diminished if the variance is granted. **Carried 5-0.**
- 5.Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
  - A. Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - (i) No fair and substantial relationship exists between the general public purposes of the zoning ordinance provision and specific application of that provision to the property, and
    - (ii) The proposed use is a reasonable one. **Motion carried 5-0.**

**Conditions:**

1. Per Plan dated 7/9/21 titled Zoning Plot for Heidi Jones 283 Eaton Rd. Freedom NH 03836.

2. Obtain any State Permits that need to be obtained before construction.

**Findings of Facts:**

1. Very wet.
2. Two abutters are concerned with the proposal.

**Motion: Ogren made a motion that, based on the foregoing findings of fact, the requested Variance from Article 4, Section 406 of the Town of Freedom Zoning Ordinance be granted with conditions. John seconded the motion; Motion carried 5-0.**

**Ogren explained the 30-day appeal process. This Variance/Special Exception expires 7/27/2023.**

Ogren invited Case # 33-38-21 Darlene C. Johnson and John Pisano to approach the board. Applicant seeks an appeal for the following:

**Special Exceptions under Article 3 Section 304.6.5.1** tree cutting within 75' of the reference line. **Special Exception under Article 3 Section 304.6.3** for erosion control or cutting and removal of trees.

Applicant also seeks the following variances:

**Article 3 Section 304.5** Variance sideline and rear (water) setbacks.

**Article 3 Section 305.6.5.3** Variance for tree cutting on a lot greater than 12.5% grade

**Article 7 Section 704.3** Structures exceed 15% of total lot coverage.

**Map 33 Lot 38, at 169 East Danforth Rd.**

Ogren read a letter from the FCC and Helen Cheese-Probert into the record. Please see attached.

Mark McConkey explained the application and the applicant's wishes. There was discussion around the retaining wall and the location of the driveway. This application was continued until August 24<sup>th</sup>. The following points were discussed:

- The request for Article 7 Section 704.3 was withdrawn.
- The lower retaining wall will be removed on the plan
- The existing house needs to be removed before the retaining wall is built.
- Drip lines need to be on the plan and a planting plan. (*Addresses FCC suggestion*).
- Grids 1,2,3 for tree cutting are fine. Stumps have to stay in place except where the septic is going.
- Trees to be removed in red on the plan.

**John made a motion to continue this application until Aug.24<sup>th</sup> , motion seconded by Tim; Motion passed unanimously.**

Ogren invited Case # 25-10-21 Caitlin Sackman Revocable Trust to approach the board.

Mark Lucy came before the board to present this application. **Case # 25-10-21 The Caitlin Sackman Revocable Trust**

This is an amended request to the application the Zoning Board granted in May due to an error in depicting the driveway into the garage. The plan approved mistakenly had the driveway entering the northerly side of the garage, while the doors were planned for the westerly side of the garage. Because of the grade change, this application is for the correct position of the access includes a retaining wall on the northerly side of the driveway. Applicant seeks an appeal for the following:

**A Special Exception under Article 3 Section 304.6.3** Erosion control for the installation of a retaining wall for the driveway.

**A Variance under Article 3 Section Table 304.5** of the zoning ordinance permit to permit the construction of a retaining wall within 14 feet of the westerly boundary line, which is further from the westerly boundary line than the existing home that will be removed. **Map 25 lot 10 at, 14 Paulipoint Rd.**

**Special Exceptions-** The special exception requests for Article 3, section 304.6.3 erosion control.

<b>A- 5-0 motion carried</b>	<b>J- 5-0 motion carried</b>
<b>C-5-0 motion carried</b>	<b>K- 5-0 motion carried</b>
<b>H- 5-0 motion carried</b>	<b>L- 5-0 motion carried</b>

**Ogren made a motion, That, based on the foregoing findings of fact, the requested Special Exceptions from article 3, section 304.6.3 for erosion control for the installation of a retaining wall of the Town of Freedom Zoning Ordinance be granted, motion seconded by John; motion passed 5-0-0.**

**Conditions:**

1. Per Plan dated 7/12/21 signature. Plan titled Zoning Application Plan prepared for The Caitlin C. Sackman Revocable Trust Caitlin C. Sackman, Trustee 14 PaulipointRd. Freedom NH, 03836.
2. Erosion Control shall be installed prior to any earth moving and shall remain in place until site is stabilized.

**Findings of Facts:**

1. Fixing the location of the driveway.
2. No other changes.

**Ogren explained the 30-day appeal process. These Special Exceptions will expire 7/27/23.**

The board elected to review the Variance worksheet for Article 3, Section 304.5:

The ZBA has the power to authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

1. The variance will not be contrary to the public interest. **Carried 5-0.**
2. The spirit of the ordinance is observed if the variance is granted. **Carried 5-0.**
3. Substantial justice is done by granting the variance. **Carried 5-0.**
4. The value of surrounding properties is not diminished if the variance is granted. **Carried 5-0.**
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
  - A. Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - (i) No fair and substantial relationship exists between the general public purposes of the zoning ordinance provision and specific application of that provision to the property, and **Motion Carried 5-0.**
    - (ii) The proposed use is a reasonable one. **Motion carried 5-0.**

**Conditions:**



1. This plan does not modify the approvals granted in May of 2021, except for the driveway and retaining wall.
2. Per plan dated 7/12/2021.

**Findings of Facts:**

1. Small retaining wall
2. Adjusted plan

**Motion: Ogren made a motion that, based on the foregoing findings of fact, the requested Variance from Article 3, Section 304.5 of the Town of Freedom Zoning Ordinance be granted with conditions. John seconded the motion; Motion carried 5-0.**

Ogren explained the 30- day appeal process. This Variance/ Special Exception expires 7/27/2023.

Ogren invited Case # 32-2-21 Troy and Stacy Fortier to approach the board.

Applicant wishes to modify Condition #5 of the May 7, 2021 Notice of Decision for the approval granted to Troy and Stacy Fortier at a hearing on July 28, 2020. Specifically, Condition #5 reads; “*All existing buildings to be razed prior to start of construction*”. They are requesting that the condition be modified to permit them to live in the westerly most structure, likely removing all or a portion of the existing deck, so that they may continue to live on-site while the project is under construction. **Map 32 Lot 2 at, 498 Ossipee Lake Rd.**

Mark Lucy agent, presented this application. There was no public or abutters present to speak against or for this application.

At: **Tax Map 32, Lot 2**

At the Location of **498 Ossipee Lake Rd.**

Karl’s only concern is to make sure the house is removed once the new house is built. It was also discussed the town be notified in writing once the house is removed.

**John made a motion to modify the notice of decision for Troy C. and Stacy Fortier as follows, motion seconded by Denny:**

**5a. Addendum approved at 7/27/21 ZBA meeting:**

1. *The one-story wood frame structure on the shore of Danforth Pond on the easterly side of the property has to be removed before the construction begins on the new home.*
2. *The owners are allowed to remain living in the one and half wood frame structure on the westerly side of the property until the new home is complete but will have to be demolished within 30 days of issuance of Certificate of Occupancy. Upon the demolition of the westerly building the Zoning Board needs to be notified in writing that it has been removed.*

**Findings of Facts:**

1. Clean plan, no tree cutting
2. Clean up lot.
3. Expires 7/28/2022.

Ogren invited Case# 4-3-1-21 Carla J. McLaughan to approach the board.

**Applicant seeks and appeal for the following:**

**Special Exception under Article 3 Section 304.6.3** Erosion Control and tree removal withing within 75 feet of the lake.

**Special Exception under Article 3 Section 304.6.5** Erosion Control and tree removal within 75 feet of the lake.

**Variance under Article 3 Table 304.5**

**Variance under Article 4, Section 406** to permit the removal of an existing non-conforming home and driveway to be replaced with a more conforming home and lengthened driveway within 75'of the shoreline of Loon Lake and to permit the installation of a septic tank and pump chamber within 125'of a wetland and Loon Lake. **Map 4, Lot 3-1 at, 11 Phil Road.**

**Application was approved.**

Points discussed:

- There were no members of the public or abutters present to speak for or against this application.
- Ogren read a letter from the FCC. (Please see attached).
- When the existing septic is found the licensed septic installer will properly remove and dispose it.

The board elected to review the Special Exception Worksheet for Article 3, Section 304.6.3 and Article 3 Section 304.6.5:

**B- 5-0 motion carried**

**J- 5-0 motion carried**

**C-5-0 motion carried**

**K- 5-0 motion carried**

**H- 5-0 motion carried**

**L- 5-0 motion carried**

**Motion: Karl made a motion that, based on the foregoing findings of fact, the requested Special Exception Article 3 Section 304.6.3 and Special Exception Article 3 Section 304.6.5 of the Town of Freedom Zoning Ordinance be granted with conditions. John seconded the motion; Motion carried 5-0.**

Conditions:

1. **Per Plan dated 7/8/21 Titled Zoning Application prepared for Duncan McLaughan 11 Phil Rd. Freedom NH, 03836.**
2. **Erosion Control shall be installed prior to any earth moving and shall remain in place until site is stabilized.**
3. **Obtain any State Permits prior to construction that need to be obtained.**

Findings of Facts:

**Minimal Trees**

The board elected to review the Variance worksheet for Article 3, Section 304.5 and Article 4, Section 406 :

The ZBA has the power to authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

1. **The variance will not be contrary to the public interest. Carried 5-0.**
2. **The spirit of the ordinance is observed if the variance is granted. Carried 5-0.**
3. **Substantial justice is done by granting the variance. Carried 5-0.**
4. **The value of surrounding properties is not diminished if the variance is granted. Carried 5-0.**
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

An Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (I) No fair and substantial relationship exists between the general public purposes of the zoning ordinance provision and specific application of that provision to the property, and

**Motion Carried 5-0.**

- (ii) The proposed use is a reasonable one. **Motion carried 5-0.**

**Motion: Karl made a motion that, based on the foregoing findings of fact, the requested Special Exception Article 3 Section 304.5 and Special Exception Article 4 Section 406 of the Town of Freedom Zoning Ordinance be granted with conditions. John seconded the motion; Motion carried 5-0.**

**Conditions:**

1. Per Plan dated 7/8/21.
2. Obtain any State Permits prior to construction that need to be obtained.
3. Update the Plan to read prepared for Carla J. McLaughan. Remove Duncan McLaughan.
4. Label the 75' shoreline setback.

**Findings of Facts:**

1. Very small driveway.

Ogren explained the 30-day appeal process. Variance and Special Exception expire 7/27/2023.

Ogren invited **Case # 24-13-21 DJH Investments Trust to approach the board.**

**Special Exception under Article 3 Section 304.6.3: Erosion Control**

**Special Exception under Article 3 Section 304.6.5: Cutting and removal of trees and natural vegetation in the Shorefront District.**

**The following variances are requested :**

**Article 9 Section 906.3**

**Article 4 Section 406** of the zoning ordinance to Permit: the owner to convert an existing non- conforming seasonal dwelling to year-round, by replacing it with a new structure in the same footprint and adding a second story and install a new septic tank and pump chamber within 125 feet of a wetland as part of this project. **Map 24 Lot 13 at, 173 Haverhill Rd.**

John Krebs recused himself and stepped away from the table as a voting member.

Mark Lucy explained to the Hayes that with John recusing himself, there would only be four board members to vote on this application and when it comes to voting they need three votes to get their application approved. Mark gave them the option to continue the application. The Hayes opted to move forward with having their application heard.

Ogren read a letter from FCC into the record. (See Attached).

Mark Lucy referred to the map to address the FCC's concern about the tree inventory first. He explained on the map the buffers are 25' buffers not the 50' buffers required by the Town. Department of Environmental Services (DES) only requires 25' buffers and when added up the totals it exceeds 100 points except in grids 3A and 3B where the existing home is. There are no trees to be cut that John knows of.

The existing rec hall that sits on footings will be removed and John stated it is a flat area and it will be loamed and seeded in when it is removed. The septic is for four bedrooms. There may be some plantings along northerly property line for a buffer. The proposed house will be built in the same foot print as the existing cottage and have a second story. The proposed garage will have a bunkhouse (2 bedrooms) above it.

Abutters Paul and Joanne Nowak spoke in favor of the project.

Points discussed:

- The building will be taller than the existing building, but it will not block anyone’s view.
- Lot coverage is acceptable.
- The tree cutting request was requested because they wanted to trim some trees that are overgrown. If any diseased trees need to come down the applicant will notify Gary the zoning officer. The request for tree cutting was withdrawn. If they need to cut any trees, the applicants will come back to the ZBA. The tree cutting request was removed.
- No tree cutting required for the septic system with 75'.

The board elected to review the Variance worksheet for Article 9, Section 906.3 and Article 4, Section 406 :

The ZBA has the power to authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

- 1.The variance will not be contrary to the public interest. **Carried 4-0.**
- 2.The spirit of the ordinance is observed if the variance is granted. **Carried 4-0.**
3. Substantial justice is done by granting the variance. **Carried 4-0.**
- 4.The value of surrounding properties is not diminished if the variance is granted. **Carried 4-0.**
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
  - A. Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - (i) No fair and substantial relationship exists between the general public purposes of the zoning ordinance provision and specific application of that provision to the property, and **Motion Carried 4-0.**
    - (ii) The proposed use is a reasonable one. **Motion carried 4-0.**

**Motion: Karl made a motion that, based on the foregoing findings of fact, the requested Variance Article 9 Section 906.3 and Article 4 Section 406 of the Town of Freedom Zoning Ordinance be granted with conditions. Denny seconded the motion; Motion carried 4-0.**

**Conditions**

1. Per Plan dated 7/11/2021 titled DJH Investment Trust 173 Haverhill St. Freedom NH,03836.
2. Obtain all State permits prior to construction.
3. Existing Recreation Hall to be removed.

**Finding of Facts**

1. Taller building

The board elected to review the Special Exception Worksheet for Article 3, Section 304.6.3.

<b>A-4-0 motion carried</b>	<b>J- 4-0 motion carried</b>
<b>C-4-0 motion carried</b>	<b>K-4-0 motion carried</b>
<b>H-4-0 motion carried</b>	<b>L- 4-0 motion carried</b>

**Motion: Karl made a motion that, based on the foregoing findings of fact, the requested Special Exception Article 3 Section 304.6.3 of the Town of Freedom Zoning Ordinance be granted with conditions. Denny seconded the motion; Motion carried 4-0.**

**Conditions:**

1. Per Plan dated 7/11/2021 titled DJH Investment Trust 173 Haverhill St. Freedom NH,03836.
2. Obtain all State permits prior to construction.
3. Existing Recreation Hall to be removed.
4. Erosion control to stay in place until site is stabilized.

**Findings of Facts**

1. Less buildings on site

Ogren explained the 30- day appeal process. This Variance/Special Exception expires 7/27/2023.

**John Krebs came back to the table as a voting member.**

There were no communications or misc.

Selectmen letters will be on the agenda next month and special meeting minutes.

There being no new business to come before the board, the meeting adjourned at 10:40 p.m.

Respectfully Submitted,  
Stacy Bolduc,  
Recording Secretary

29A SOUTH EALING ROAD  
LONDON W5 4QT  
UK

20<sup>th</sup> July 2021

To whom this may concern:

My name is Helen Cheese-Probert. I am Darlene Johnson and John Pisano's immediate neighbour on East Danforth Road, Freedom.

I am sending this letter to inform you that I have viewed the proposed plans dated 10<sup>th</sup> July 2021 and that I am in full support of them building a new home, including creating retaining walls. I am therefor, also in agreement with the retaining walls shown on these plans.

If you have any questions, please do not hesitate to contact me via my email address [helencprobert@aol.com](mailto:helencprobert@aol.com)

Yours faithfully

A handwritten signature in black ink, appearing to read 'Helen Cheese-Probert', written in a cursive style.

Helen Cheese-Probert

165 EAST DANFORTH ROAD, FREEDOM, NH 03836 U.S.A.

## Town of Freedom

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**From:** Thomas Achenbach <oakbrook33@gmail.com>  
**Sent:** Tuesday, July 27, 2021 11:52 AM  
**To:** office@townoffreedom.net  
**Subject:** Zoning Board of Adjustment Case # 8-7-21 Heidi Jones Map 8 Lot 7

July 27, 2021

To: Zoning Board of Adjustment  
Town of Freedom, NH 03836

Case # 8-7-21 Heidi Jones

Applicant seeks an applicant seeks an appeal under Article 4 Section 406 septic tank and leach field closer than 125' to wetlands. Map 8 Lot 7, at 283 Eaton Road. (The lot is not at 283 Eaton Road. It is across the street)

To whom it may concern,

We bought this farm at 286 Eaton Road, Freedom, NH in 2009. This farm has been here since before 1851. When we bought this farm we did not realize how poorly the soil drained around us. I have worked hard to get the runoff from the barn and house to flow away from my property in a way that did not cause the water level to rise and cause a problem for us or our neighbors.

Since I began working on the drainage issues around my property I have not had a flooded basement. I am concerned that adding more water to this poorly drained lot next door will cause the water level to rise on my property and cause water issues in my basement, under the barn, and elsewhere.

I oppose granting an exemption to the zoning rules for Heidi Jones because I feel that if there is more water added to this poorly drained soil it will cause problems for my property and I believe it will also cause problems for Arlene Knight's property. I also believe that adding more volume of water to this poorly drained soil will affect my property value. I am surprised that the board is considering this request because Heidi Jones told me that this lot was not suitable for building a house. Heidi's mother, Betty Bischof, also told me that she had tried to build and was denied by the town because the lot was too wet. Robert Meserve and Stephen Jones Jr also told me that the lot is too wet.

I would have preferred to come to the zoning meeting in person; however, the town has chosen not to protect the vulnerable people in town by simply making a reasonable requirement that people wear a mask to try and prevent the spread of this virus that has become such a problem for our entire country and the world. To those people who say it is their right not to wear a mask in public when there is a potentially deadly virus around, I would ask what happened to my right to be safe in my community and not have to be concerned that I may catch a virus that could kill me?

Thank you for considering my input in this matter that concerns me and my property.

Sincerely,  
Thomas Achenbach  
286 Eaton Rd  
Freedom, NH. 03836

## Town of Freedom

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**From:** Nancy Achenbach <orphanislandsoap@gmail.com>  
**Sent:** Tuesday, July 27, 2021 2:52 PM  
**To:** office@townoffreedom.net  
**Subject:** Town of Freedom - Zoning Board of Adjustment

July 27, 2021

Nancy Achenbach  
286 Eaton Road  
Freedom, NH 03836

To: Zoning Board of Adjustment  
Town of Freedom

Case # 8-7-21 Heidi Jones

Applicant seeks an appeal under Article 4 Section 406 septic tank and leach field closer than 125' to wetlands. Map 8 Lot 7 at 283 Eaton Road.

Map 8 Lot 7 is not at 283 Eaton Road.

This letter is to the people of the town of Freedom and the Zoning Board of Adjustment.

I received three certified letters from the town of Freedom concerning my property from the Zoning Board of Adjustment.

I can not come in person to speak because I have had cancer and I am immune suppressed. I require mask-wearing by everyone.

I have lived in this area for thirty years. When I moved to New Hampshire I had to wear an air tank on my back during the HIV crisis in the early 1990s at Lake Region General Hospital in Laconia, NH. Wearing a mask does not seem like an inconvenience to me. I have been living at 286 Eaton Road since 2009.

I contacted the New Hampshire Department of Environmental Services in 2009. I contacted the DOT and the University of New Hampshire to find out what is in this water.

The water in Freedom is not of good quality. The surface water in the area is full of toxins and bacteria from runoff.

New Hampshire DES and the DOT told me to use water saver appliances. We installed water saver toilets, a water saver dishwasher, and a water saver clothes washer. I do not use detergents with phosphates. I use very little water.

Our streams, rivers, and lakes in the Lakes Region are becoming a toxic hazard to dogs, humans, and other wildlife. We are finding cyanobacteria in all of the water in this area. I have met several people who have sold their lake homes in Freedom. They have moved to cleaner waters.

I have a new well. My well here at 286 Eaton Road was contaminated by groundwater.

I oppose a septic system and leach field on Map 8 Lot 7 on Eaton Road, Freedom, NH, under Article 4 Section 406 to Heidi Jones. The lot is too small and too wet. Water does not drain in this area and causes runoff.



This soil has a high PH full of bacteria and gram-positive fungal-like pathogens. It is not safe to grow food.

I did meet with Gary Williams, the zoning officer at the Freedom town office. I appreciate the time and information that I received. I was very uncomfortable that no one was asked if they were vaccinated or required to have a mask on. My husband and I were the only two people wearing a mask.

I am retired from working in infection control and the operating room. I grew up on a commercial farm where my home and farms were inspected for cleanliness. The soil and the water were tested by the state. I grew up having to rinse the bottom of my shoes in the sanitizer when I came home, so I would not spread any pathogens where food was growing.

Bacteria and viruses are spread by water. UNH tests their sewer water for Covid 19. Cyanobacteria particles become airborne. They can travel further than a mile away from the source causing neurodegenerative diseases and liver cancer.

It is important to clean up any toxins and keep Freedom clean for future generations.

Thank you for reading my letter.

Sincerely,  
Nancy Achenbach

--  
*Nancy Achenbach*

# Freedom Conservation Commission

Freedom, New Hampshire 03836

July 23, 2021

Town of Freedom  
Zoning Board of Adjustment  
Freedom, NH 03836  
Attention: Scott Lees, Chairman

**RE: DJH Investments Trust  
Variance and Special Exception Applications  
173 Haverhill Street  
Tax Map 24 Lot 13**

The Freedom Conservation Commission has received and reviewed a copy of the referenced application during our last meeting held on July 20, 2021. Upon a detailed review of the application(s) we have voted to communicate the following feedback and requests.

1. We agree and support the proposed erosion control and stormwater infiltration details noted on the plan dated 7/11/2021.
2. According to the details provided on the plan for the waterfront buffer tree inventory to remain after the project, there is significant impact to the trees directly adjacent to the waterfront. In all grids the point value is below the 100 point threshold. In addition, the proposed tree removal is not in support of construction of structures or driveways and appears to be entirely for aesthetic reasons. This is contrary to the spirit of the Shoreline Protection Act and the efforts by the town's zoning ordinance to preserve the vegetation buffer on the shorefront. We recommend that the proposed tree cutting not be permitted.
3. We understand that the existing recreation hall will be removed but noted that it remains in the application as a proposed structure. Assuming however, that it is removed as indicated on the plan we would like to understand what is proposed to replace the structure in terms of ground cover and other vegetation.
4. The proposed garage with bunkhouse could potentially impact and overwhelm the septic system and have consequences on the lake. We did not see sizing details for the septic system and if it was appropriate for the increased occupancy that a bunkhouse would create. We request that more information in this regard be presented for consideration.

Friday, July 23, 2021

Page 1 of 2

# Freedom Conservation Commission

Freedom, New Hampshire 03836

July 23, 2021

Town of Freedom  
Zoning Board of Adjustment  
Freedom, NH 03836  
Attention: Scott Lees, Chairman

**RE: Johnson, Darlene & Pisano, John**  
**Variance and Special Exception Applications**  
**169 East Danforth Road**  
**Tax Map 33 Lot 38**

The Freedom Conservation Commission has received and reviewed a copy of the referenced application during our last meeting held on July 20, 2021. Upon a detailed review of the application(s) we have voted to communicate the following feedback and requests.

1. Tree Cutting within 75' of the reference line. According to the tree gridding details provided, there is significant tree cutting proposed. Of particular concern to the FCC are grids 6, 7, 8 and 9. These grids will either be drastically cut or completely cut to support the proposed project. These grids show point values well below the 100 point threshold.

The slope of the lot indicates a grade in excess of 12.5% toward the river and pond which further exacerbates the potential for damaging runoff into these bodies of water.

Therefore, we highly recommend that the impacted tree grids below the 100 point threshold be restored to this point value with post-construction replanting with woody vegetation, trees and other ground cover. A plan for replanting should be submitted for review.

2. Stormwater runoff. The project plan dated 7/10/2021 details the erosion control during construction of which we are in support. However, there are no details provided for water infiltration surrounding the proposed house and garage. This is particularly important due to the percentage of impervious surfaces presented. We ask that details be provided for managing the runoff from the proposed structures. In addition, the proposed retaining wall will have a significant impact on the collection and direction of water toward the bodies of