

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

Freedom Zoning Board of Adjustment: **May 24, 2022**

Present: Chairman Scott Lees, Vice Chairman Craig Niiler, Karl Ogren, John Krebs, Zoning Officer Gary Williams, Recording Secretary Stacy Bolduc.

Absent: Jeff Fongemie (A), Denny Anderson (A), Jacob Stephen

Public: Bob Rafferty, Mark Morrow, Kathleen Hirseh, Betsy Packard, Larry Foss, Kate Foss Delorge, Ben Delorge, Rose Larson, William Larson, Stephen Mullane, Julianne Mullane, Julianne Sumaro, Dan Mullane, Sean White, James Soucy (attorney for the Larsons).

During this meeting the Board will hear the following applications:

**Application # 47-7-22 Mark S. Morrow revocable Trust**  
**Application # 19-8-22 William Larson Trust**  
**Application #42-20-22 Palacio Revocable Trust**  
**Application # 36-7-22 Daniel Mullane & Juliann Sumaro**  
**Application # 25-10-22 Caitlin C. Sackman Revocable Trust**  
**Application # 31-27-22 Scott C. Johnson Revocable Trust**  
**Application # 26-9-22 Foss-Delorge Rev. Trust**

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

Chairman Lees 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 Cupka sits at the table as a voting member until Karl Ogren arrives.

**Craig made the motion, seconded by Peter to accept the minutes of the May 3, 2022, site visit meeting at 21 Swasey Rd.; Motion passed 5-0-0.**

**John made a motion to accept the May 3, 2022, minutes as written, motion seconded by Peter; Motion passed 5-0-0.**

Chairman Lees reviewed the difference between a Special Exception and a Variance and how the meeting will proceed.

## PUBLIC HEARING

**Tim Cupka was a voting board member in place of Karl Ogren on this application.**

**Application # 47-7-22 Mark S. Morrow Revocable Trust** (*Continued from March 1<sup>st</sup> time*).

Applicant wishes to construct a free-standing deck, and stairs within 75' of the shoreline and the widening of an existing driveway within 300 feet of the shoreline. Applicant seeks the following: Variance under Article 3 Section Table 304.5, Special Exception Article 3 Section 304.6.3, Special Exception Article 3 Section 304.6.5. At Map 47 Lot 12 Located at 21 Swasey Rd. Zone: Loon Lake General Res.

Jim Rines presented this application and recapped the updates made to the plan. The stairs now go to the top of the bank. He also submitted a revised tree cutting plan.

Points discussed:

- The crosshatch on the plan represents the stairs.
- There is one small tree coming out but will be replaced.
- The stairs will be on posts over the ground and the deck will be on piers and will be no higher than 30".

There was no abutters or public present.

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.**

**Motion: Chairman Lees 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.**

**Conditions:**

- 1. Per the Plan titled Zoning Permit Applicant Plan for Mark S. Morrow Revocable Trust & Kathleen Hirsch Trustees. Dated 5/4/2022.**
- 2. A licensed land surveyor will lay out the deck and then provide an as-built once it's constructed.**

**Findings of Facts:**

- 1. Stairs to be elevated and installed on posts.**
- 2. Deck will be built above ground on piers or posts.**

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

- |                              |                              |
|------------------------------|------------------------------|
| <b>A- 5-0 motion carried</b> | <b>J- 5-0 motion carried</b> |
| <b>A- 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> |

**Conditions:**

- 1. Per the Plan titled Zoning Permit Applicant Plan for Mark S. Morrow Revocable Trust & Kathleen Hirsch Trustees. Dated 5/4/2022.**
- 2. Per issuance of NHDES Shoreland Permit**
- 3. Erosion control shall be installed prior to any earth moving and remain in place until the site is stabilized.**

**Findings of Facts:**

- 1. Stairs to be elevated and installed on posts.**
- 2. Deck will be built above ground on piers or posts.**

**Motion: Chairman Lees 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. John seconded the motion; Motion carried 5-0.**

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

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|------------------------------|------------------------------|
| <b>B- 5-0 motion carried</b> | <b>J- 5-0 motion carried</b> |
| <b>B- 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> |

**Conditions:**

- 1. Per the Plan titled Zoning Permit Applicant Plan for Mark S. Morrow Revocable Trust & Kathleen Hirsch Trustees. Dated 5/4/2022.**

## **Findings of Facts:**

1. **The project will create minimal ground disturbance.**

**Motion: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested 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.**

Chairman Lees explained the 30-day appeal process. Variance and Special Exception expire 5/24/24

### **Application # 19-8-22 William Larson Trust. (Continued from May 3, 2022 1<sup>st</sup> time).**

The applicant is seeking a rehearing of the variance application denied by the Zoning Board of Adjustment on January 25, 2022 meeting with a Notice of Decision dated 1/31/2022, for a variance under Article 9 Section 906.3 as it pertains to height to add a second story onto the main house. At Map 19 Lot 8 Located at 1031 Ossipee Lake Rd. Zone: Ossipee Lake General Res.

Jim Rines presented this application. He opened with the history of the application. It was continued from May 3, 2022 so the board could consult with town council. He argued there would be less impact to the shoreland going vertical would be better than going horizontal. The plan has not changed from the original application.

Chairman Lees asked if there were any abutters present.

Bob Rafferty 1018 Ossipee Lake Rd. stated this is a non-conforming lot and the Larson knew what they were getting when they bought the house and he supports an addition (going horizontal) as opposed to the house going vertical to protect his view. He proposed a compromise to cut down a couple of trees that would improve his view of the lake if the addition were to go vertical. With the aid of the map and pictures he demonstrated which ones they are for the board. He reiterated there is no hardship for the application. Peter Keenan questioned if the trees that he wanted to take down were even on the Larson's property.

Mr. Larson apricates the compromise but does not support taking down more trees. Jim Rines stated they may not have enough points to remove any trees and it would probably need a variance. The hardship is the land width was decided prior to zoning.

Mr. Rafferty disagrees with Jim Rines and stated there is no hardship.

The Larson's attorney James Soucy spoke on behalf of the Larson's and explained the hardship of the property. It is a non-conforming lot and the dimensions of the lot were created before the ordinance. In respect to the hardship, it is not that they cannot make any use of the property but that they can't make a reasonable use based on the surrounding properties. A second story is not uncommon and the only thing stopping them is this non-conforming lot, that's why the ZBA board has this application before them. He further explained this is a reasonable use and maintains all the goals and purposes of the ordinances and Master Plan. There is also no issue with health or safety and no negative impact on municipal services. Mr. Soucy also argued that Mr. Rafferty does not have a right to a view under natural law. His property ends where it is and he's allowed to enjoy and use scenic vistas but, he has no legal basis or right to make his demands.

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.**

**Discussion: John Krebs thinks this request is a reasonable one. The building predates zoning and an outward expansion would be worse. Going vertical would be better and the height is well below the maximum of what the town allows. Once the house is expanded it will still be smaller than many of the houses around the lake today. This proposal is consistent with the neighborhood and the building that is going on around the lake today.**

2. The spirit of the ordinance is observed if the variance is granted. **Carried 5-0.**

**Discussion: John Krebs stated when the house is expanded up, it will be similar in size to the homes surrounding it in the same area.**

3. Substantial justice is done by granting the variance. **Carried 4-1-0.**

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:

- ii. 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: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested Variance from Article 9, Section 906.3 of the Town of Freedom Zoning Ordinance be granted with conditions. seconded the motion; Motion carried 5-0.**

**Conditions:**

**1. Per the Subsurface Disposal plan for William E Larson Trust 142 Fairway Drive Attleboro, MA 02703 dated 9-15-21.**

**2. Building shall be no higher than 27 feet.**

**Findings of Facts:**

1. This application shows the view impact of the proposed roof line.
2. Vertical expansion does not expand footprint and preserves previous area.
3. The lot is non-conforming in width.
4. Adding a second residential story to home is a reasonable use.
5. The vertical expansion will not have a significant impact on views from surrounding properties.

Chairman Lees explained the 30-day appeal process. Variance and Special Exception expire 5/24/24

**Karl Ogren joined the meeting at 7:45 p.m. as a voting member and Tim Cupka will not be voting but will take part in the discussions.**

**Application # 42-20-22 Palacio Revocable Trust (Continued from May 3, 2022 1<sup>st</sup> time).**

The applicant wishes to construct a perched beach and steps within 75 feet of the lake and a retaining wall just inside the 30-foot side yard setback. Applicant is seeking the following: Variance from Article 3, Table 304.5 Special Exception from Article 3, Section 304.6.3 for Erosion Control at Map 42 Lot 20 Located at 55 Packard Dr. Zone: Berry Bay Gen Res.

Jim Rines presented this application. He reviewed that the application was continued so that the beach could be shifted further from the sideline setback so relief is no longer needed and an infiltration trench was added to the garage and the stone steps have been depicted on the plan. Jim reviewed the 2018 plan that showed the driveway and house shape to be different than what it is now. He explained that they came back in September of 2018 to relocate the driveway and update the house to what the board sees now on the current plan. There were questions the first time the application was presented as to why the beach was not placed where the current steps are located. Jim stated one of the trustees of the trust is not well and needs steps with hand rails. All the revisions that the board asked to be made to the plan have been made.

Betsy Packard an abutter asked for clarification on what the wall would look like.

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:
    - iii. 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. Per plan NHDES Wetlands Application Plan for The Palacio Rev Trust of 2012 dated 5/5/2022.
2. NHDES wetlands permit has been obtained.

**Findings of Facts:**

1. Revised application has moved away from the lot line.
2. NHDES wetland permit already been obtained.

**Motion: Chairman Lees 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. Karl seconded the motion; Motion carried 5-0.**

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

**A- 5-0 motion carried**

**C- 5-0 motion carried**

**H- 5-0 motion carried**

**J- 5-0 motion carried**

**K- 5-0 motion carried**

**L- 5-0 motion carried**

**Conditions:**

1. Erosion control shall be installed before any earth moving and remain in place until the site is stabilized.

**Findings of Facts:**

1. Impacted area is already very sandy.
2. Infiltration trench on garage reduces runoff.

**Motion: Chairman Lees 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. Karl seconded the motion; Motion carried 5-0.**

Chairman Lees explained the 30-day appeal process. Variance and Special Exception expire 5/24/24.

**John Krebs recused himself and stepped away from the table for the next application. Tim Cupka was a voting member on this application.**

**Application # 36-7-22 Daniel Mullane & Juliann Sumaro** *(Continued from May 3, 2022 1<sup>st</sup> time)*

Applicant wishes to construct a single-family home and a detached garage with a bunk house /living space (no kitchen facilities) above, and a driveway. Applicant seeks the following: Variance from Article 3, Section 304.5 for side yard setback. Special Exception from Article 3, Section 304.6.3 Map 36 Lot 7 Located at Sherwood Forest way Zone: Levitt Bay Gen Res

Jim Rines presented this application and stated the board wanted to see the setback increased and the revised plan increases the setback from the proposed 9.4' to 15' and the square footage of the building went from 1015 sq. feet to 936 sq. feet. The shoreland and sewer permits have been approved and they have five letters of support from neighbors. The only boundary that is violated is to a lot that the applicants own. The garage is fully conforming.

Questions from the board:

Karl questioned moving the whole structure to center it more with the lot. Jim Rines stated that the reason they did not do that is because Sherwood Forest is the abutter on one side and they strongly opposed the first application that was submitted and that is why that side of the house is conforming. Sherwood Forest is not present tonight. Julianne Mullane an abutter asked what the benefit would be to this proposal. Karl responded it was just a thought and he wanted to suggest that as an option for the owners. The Zoning Officer can approve any tree cutting that would need to be done. Craig asked if the driveway would connect to the parking lot. The height of the building will be below the 35' allowed by the town. After Chairman Lees asked the board where they were at with the application the board discussed possible conditions. Craig supports the driveway never to connect to the adjacent beach lot driveway.

Julianne Mullane, Julianne Sumaro and Daniel Mullane don't have a problem with the driveway not connecting with the beach parking lot. They have dogs and stated the driveway would come off Sherwood Forest Way.

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:
    - iv. 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.**

*Jim Rines stated he would bring in a revised copy of the plan so the Spelling of “ James Yeager” is corrected on the plan. Map 36 Lot 13-1. Use revised date of 5/24/2022 on the Plan titled.*

**Conditions:**

1. Per the Plan titled Zoning Application Plan for Daniel Mullane & Juliann Samaro dated 5/24/2022
2. NHDES Shoreland and Septic permits have been approved.
3. Driveway will never access Tax Map 36 Lot 5.

**Findings of Facts:**

1. Sherwood Forest LLC had expressed strong opposition to sideling infringement in previous meetings.
2. Applicant owns the abutting lot on the impacted side.

**Motion: Chairman Lees 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. Karl seconded the motion; Motion carried 5-0.**

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

- |                              |                              |
|------------------------------|------------------------------|
| <b>C- 5-0 motion carried</b> | <b>J- 5-0 motion carried</b> |
| <b>D- 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> |

**Conditions:**

1. Erosion Control shall be installed prior to any earth moving and remain in place until the site is stabilized.
2. Silt log shall be used for erosion control.

**Findings of Facts:**

1. The lot has minimal slope.



**Motion: Chairman Lees 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. Karl seconded the motion; Motion carried 5-0.**

Chairman Lees explained the 30-day appeal process. Variance and Special Exception expire 5/24/24.

**John Krebs rejoined the table as a voting member and Tim Cupka is not voting.**

**Application # 25-10-22 Caitlin C. Sackman Revocable Trust**

Applicant wishes to construct four retaining walls inside the shoreland setback and side yard setback on the property. This is to help stabilize the site where the nonconforming house was removed.

Applicant seeks the following: A variance from Article 3, Section 304.5, Special Exception from Article 3, Section 304.6.3 erosion control. At Map 25 Lot 10 Located at 14 Pauli Point Rd. Zone: Ossipee Lake Gen Res.

Jim Rines requested a site visit for this application. Chairman Lees asked board members if they would benefit from a site visit. John Krebs responded the board use to do site visits all the time but, is concerned the house on North Broad Bay Rd. is still being built with the issue of the retaining wall not resolved when everyone sitting in the room says it can't be removed practically. He's not sure what they would be looking at. There is no cease and desist in place to stop the building and the application is delayed another month by then the house will be built.

Jim explained that's why he sent out the email request to do a site visit sooner because he could have submitted revised plans for tonight. Jim explained the wall was up before it was realized there was a violation. Some board members were concerned that the site visit is to sell them on how good the wall looks or the workmanship. Jim responded it's to show the difficulty of bringing the wall in. John asked if Jim would consider withdrawing the application and re-noticing the abutters. There was a brief discussion around re-noticing.

**John made a motion, seconded by Karl to continue application 25-10-22 Caitlin C. Sackman Revocable Trust to June 28, 2022 and schedule a site visit and notice the abutter at the applicant's expense.**

**Discussion: Re-noticing of abutters was briefly discussed.**

**Craig he is concerned with how far the sidewalls go out with minimal side-yard setback encroachment and mitigating stormwater runoff.**

**Tim- stated the benefit of the site- visit vs. looking at a plan.**

**It was decided to schedule the site visit before the ZBA closing date so Jim can submit revised plans for June 28<sup>th</sup> and notice abutters at the applicant's expense.**

**The site visit is scheduled for June 1, 2022 at 6:00 p.m.**

John and Karl rescinded their motion and Chairman Lees made the following motion:

**Chairman Lees made a motion to continue this application until the June 28<sup>th</sup> meeting, in the interim a site visit will take place to review the site June 1, 2022 at 6:00 p.m. to allow Jim to get new plans submitted by the June 13<sup>th</sup> and notify abutters at the applicant's expense. Peter seconded; Motion passed 5-0-0.**

**Application # 31-27-22 Scott C. Johnson Revocable Trust**

Applicant wishes to complete construction that has been started on four retaining walls. The applicant did not realize retaining walls were "structures" in the zoning ordinance and therefore require compliance with structure setbacks or relief for encroachment into the setbacks. Applicant seeks the following: Variance from Article 3 section 304.5. At Map 31 Lot 27 Located at 38 North Broad Bay Rd Zone: Broad Bay Gen Res

Two sidewalls need a variance. Instead of 75' its approximately 72'.

**Chairman Lees made a motion to continue application # 31-27-22 Scott C. Johnson Revocable Trust until June 28<sup>th</sup> meeting, in the interim a site visit will take place to review the site June 1, 2022 at 6:30 p.m. to allow Jim to get new plans submitted by June 13<sup>th</sup> and notify abutters at the applicant's expense, Peter seconded the motion; Motion passed 5-0-0.**

#### **Application 26-9-22 Foss-Delorge Rev. Trust**

Applicant is applying for an after-the-fact permit to complete a retaining wall, step, pathway within 75 feet of the shoreline, that was started without a permit. The intent is to ease the access and eliminate the step straight-shot stairway to the lake. Applicant is seeking the following: Variance from Article 3, Section 304.5, Variance from Article 9, Section 906.2, Variance from Article 9, Section 906.3, Special Exception Article 3, Section 304.6.3 Erosion Control. At Map 26 Lot 9 Located at 364 Pequawket Trail Zone: Ossipee Lake Gen Res.

Jim Rines presented this application. Jim explained the owners presently have a stairway the runs straight down the back of the bank to the shoreline with no resting landings. The vertical elevation change is 22' vertically and 32 feet horizontally and carved partially into the bank as a result currently the stormwater runoff in heavy events flows straight down the steep bank and as result has rotted and undermined some of the supports. Rather than replace the stairs it was suggested that they create a switchback path that would eliminate the straight shot to the shoreline for stormwater runoff and it would create an easier and more gentle access to the lake. In observing other retaining walls along this shoreline, they assumed that they could begin constructing the suggested switchback path with a series of steps supported by a dry stacked retaining wall. Jim reiterated they did not try to hide the construction and once the Zoning Officer pointed out that they needed a permit they halted all construction and put in the necessary erosion control and have done nothing since. The wall that has been built so far has been built to allow for plantings and vegetation to help soften the starkness of the wall. They would also regrade and revegetate the stairway area. The Conservation Commission submitted a letter that stated they thought this was an environmentally conscious design and if the board were to approve it, they would like to use it as a template. The applicants have not applied for a shoreland permit yet because they are waiting to see what the board says in case, they have to do something different. No trees were removed.

Question, concerns and comments of the board:

- John questioned if the stairs had been rebuilt.
- The wall is shocking from the water and the impact is great.
- Wall is 26' over the lot line.
- If this application were to come to the board before it was built it would probably not get approved.

Abutters:

Larry Foss an abutter and the father to Mrs. Foss-Delorge, he explained he has been on the property with his parents since 1963. He stated he was partly to blame for the mistake with the not getting a permit. He didn't think that you needed a permit for anything to do with landscaping. He pointed out the work that has been done will prevent stormwater damage and erosion and vegetation will help the starkness of the wall. He does not oppose the project. The project encroaches on his property.

Jim Rines would like the board to do a site visit. Craig has no doubt that the walls look could be improved with vegetation, he is more concerned with the encroachment and the scale of the wall. Even if this application came before the board before the project was started is would probably not of been approved. Tim Cupka supports the natural rock vs. the redi-rock yes, there is an encroachment problem but there may be a fix for that and the design will help with erosion. John questioned if the wall is stable. Chairman Lees stated for him it is the impact of the whole area and you can get up and down with a set of stairs and the embankment has been destroyed and this is

not in keeping with the intent. They are supposed to be minimizing the impact at 75' and this project does not do that.

Jim took a minute to discuss options with the applicants.

Ben Delorge addressed the board when they returned and apologized for the situation and explained how the wall was hand built. No machinery was used in laying the stone. Equipment was used to drop the stone off at the site and it was pushed to the edge of the bank. He said if they have to take the rock out then they would have to use a machine and that would do more damage to the bank. He questioned if they could leave what is there and plant vegetation to cover the wall up. The path is not useable the way it is because it does not go to the top. Craig explained this boards job is to look at this application like it has not happened yet, not to try and fix what has already been done. The Selectmen would decide what the remedy would be.

The board briefly discussed if there was a modification that is approval able. Chairman Lees asked if the board was ready to vote. Kate Foss-Delorge asked what if they removed some of the wall would it get approved. Chairman Lees said maybe but he thought they would have to remove a lot of it and they would not get the effect they are looking for. There was a brief discussion what to do with this application. There are no erosion control issues with this wall. Chairman Lees suggested continuing this application to see if any modifications can be done to down size the wall. It was also decided to do a site visit to see the wall. Some board members support denying the application and letting selectmen decide how to deal with the project. Discussion ensued around voting down the application for what they have done and what they are proposing vs. continuing the application to see if modifications can be done to downsize the wall and show restoration for the areas disturbed.

**John made a motion to continue the Foss-Delorge Rev Trust application until June 28<sup>th</sup> with a site visit on June 1<sup>st</sup> at 7:15 p.m., motion seconded by Karl; Motion passed 4-1-0.**

## **Public Meeting**

### **Miscellaneous**

- **Communication and miscellaneous.**

There was no mail.

There being no new business to come before the board, the Motion by Chairman Lees, seconded by Karl that this meeting adjourns; Motion passed unanimously.

The meeting adjourned at 10:00 p.m.

Respectfully Submitted,  
Stacy Bolduc,  
Recording Secretary