

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

Freedom Zoning Board of Adjustment: **July 26, 2022**

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

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

Public: Jim Rines, Kerry Fox, Raymond Melvin, Laurel Anderson, Ronald Briggs, Jay and Janet Kenty.

During this meeting, the following applications will be heard:

**Application # 29-2-22 Caitlin C. Sackman Revocable Trust**

**Application # 29-6-22 Raymond Melvin**

**Application # 47-5-22 Kenty Rev. Trust**

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

Vice Chairman Niller 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.

Chairman Lees joined the meeting at 7:02 p.m.

**PUBLIC MEETING**

The minutes of the June 28, 2022 meeting were reviewed. Karl questioned on page 3 who made the motion and seconded it for the Scott Johnson Revocable Trust. It was decided that the recording secretary would verify who made the motion and seconded it before accepting the minutes.

John made a motion to table the June 28, 2022 meeting minutes until the August meeting, motion seconded by Karl; Motion passed 4-0-0.

**PUBLIC HEARING**

Peter Keenan joined the meeting at 7:20 p.m. and did not vote on this application.

Chairman Lees invited Application # **29-2-22 Sackman Rev. Trust** (Continued from June 28<sup>th</sup> meeting)

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 non-conforming house was removed.

Applicant seeks a variance from Article 3, Section 304.5, Special Exception from Article 3, Section 304.6.3 erosion control.

Jim Rines came before the board to present the revisions made to the plan since the June meeting. Chairman Lees explained Peter Keenan is running late, and only four members are currently sitting for this application. Jim was fine with four board members. He explained the first revision to the plan is the revised location for the

westerly retaining wall, and the second is to construct a diversion berm along the shared boundary line with Tax Map 25, Lot 9-1. The berm will divert runoff to a proposed crushed stone infiltration trench. The trench is designed to handle a 25- year storm event and prevent erosion along the shared boundary line. Karl clarified this approval is in addition to previous erosion control approvals and does not replace prior approvals. This plan shows erosion control for the retaining walls only.

**Peter Keenan joined the meeting at 7:15 p.m. and did not sit on this application.**

There were no abutters or public to speak.

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 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 5-0.**
    - (ii) The proposed use is a reasonable one. **Motion carried 4-0.**

**Conditions:**

1. Per the Plan titled The Caitlin C. Sackman Revocable Trust dated 7/11/22.
2. This approval is for retaining walls 1,2,3, and 4.

**Findings of Facts:**

1. Runoff from wall #3 will be directed by a berm towards an infiltration trench.
2. Existing house was non-conforming. These walls will help stabilize the area formally occupied by the house.

**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 4-0.**

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>B-4-0 motion carried</b>  | <b>K- 4-0 motion carried</b> |
| <b>C- 4-0 motion carried</b> | <b>L- 4-0 motion carried</b> |

**Conditions:**

1. Per the Plan titled The Caitlin C. Sackman Revocable Trust dated 7/11/22.

2. **Submit a stormwater calculation showing infiltration trench can handle 25-year storm event. Calculation shall be stamped by a PE (Professional Engineer).**
3. **PE shall inspect completed infiltration trench and certify that they are built to what is shown on the plan.**

**Findings of Facts:**

1. **Erosion control was expanded from previous approval to cover berm and trench installation.**

**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 4-0.**

Chairman Lees explained the 30-day appeal process. Variance and Special Exception expire 7/26/2024.

**Peter Keenan joined the meeting.**

Chairman Lees invited **Application # 29-6-22 Raymond Melvin**

Kerry Fox presented this application to the board. The applicant wishes to build a new driveway, new home, and garage with a studio. This is a preexisting non-conforming lot. The garage will be 40x50 ft. the driveway meets town specs. Stormwater management will include infiltration trench and rain gutters. The soil is excessively drained. The plan shows a silt fence where there will be any excavation. Where the septic system goes, trees will be cut and replaced with vegetation. Plans have been submitted to DES, and a shoreland permit has been obtained.

It's just the front of the property where the septic is going that slopes exceed 12.50%; no building is taking place on slopes that exceed 12.50%. The plan will need detail for erosion control added to the plan and change silt fence to silt sock.

**Questions from the abutters:**

Laurel Anderson, an abutter, voiced concern that the driveway would add to the water problem that she has on the property. The two lots on the other side of this lot create flooding for her property. The location of the garage doors was discussed. John suggested moving the garage back or the house forward because getting a boat into the garage with only 30 ft. will be tight.

**No questions from the public.**

The following needs to be added to the plan:

- Infiltration trench detail the length of the driveway and replace the silt fence with a silt sock detail
- No straw wattles.
- Revise the driveway showing it going to the front of the house.
- Rip Rap detail.

**Chairman Lees made a motion to continue this application until the August 23<sup>rd</sup> meeting, motion seconded by John; Motion passed 5-0-0.**

**The deadline for submission is Aug. 8<sup>th</sup> . A letter will be submitted asking for a continuance if they cannot make the Aug. 8<sup>th</sup> deadline.**

Chairman Lees invited **Application # 47-5-22 Kenty Rev. Trust**

Applicant wishes to add an addition to an existing home, replace septic system and widen a small section of driveway and construct a retaining wall.

Ron Briggs came before the board to present this application. For erosion control there are infiltration trenches will be installed where ever the roof pitches. Infiltration trenches can handle a 25- year storm event. Ron explained the trees being cut are for the construction of the septic system and widening of the driveway and retaining wall. No work is being done with the 75-foot setback. The retaining wall is 3-4 feet tall.

There are no abutters or public.

The detail for the erosion control needs to added to the plan. This was a very easy straight forward plan. The septic plan has the tree cutting and erosion control plan thought the erosion control detail needs to be added.

The board did a straight up vote for the Special Exception worksheet due to no issues with this application. The condition is the same for each special exception.

The board elected to review the Special Exception Worksheet for Article 3, Sections 304.5, 304.6.3 and Article 7 sections 703.05 and 703.5.1:

- |                              |                              |
|------------------------------|------------------------------|
| <b>A-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>C- 5-0 motion carried</b> | <b>L- 5-0 motion carried</b> |

**Conditions:**

- 1. Per the Plan titled Jay Kenty & Janet R. Kenty Map 47/ Lot 5 at 13 Swasey Rd. dated 6/6/2022 with a revision date 7/7/2022.**
- 2. Erosion Control shall be installed prior to any earth disturbance and shall remain in place until construction is completed and site is stabilized.**
- 3. Must obtain all state permits.**
- 4. Add silt sock detail to the plan.**

**Findings of Facts:**

None

**Motion: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested Special Exception Article 3 Sections 304.5, 304.6.3, and Article 7 Sections 703.05, 703.5.1 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 7/26/2024.

**PUBLIC MEETING**

How many plans are needed, and looking at final plans were discussed. The board decided that if a plan needs to be updated per conditions, then three plans (final plan) need to be submitted. The zoning officer will look at the notice of decision and verify the plan is updated correctly and state permits are in place.

Chairman Lees shared an email from Anne Cunningham requesting the Zoning Board meet with the Planning Board in October to review what needs to be updated with the Zoning Code. Chairman Lees will respond to Anne

that the board would like to meet and requests early on the agenda. Possible topics for discussion: Structures, retaining walls (carports in the shorefront and sheds).

John suggested that excavators working on the shorefront should have a license or registration. Before starting work, they need to know what is required for erosion control and permits. John also suggested as-builts when the project is done. The board liked the idea of as-builts. Discussion ensued around who would compare the as-built to the plan. Chairman Lees asked if the as-built should be added as a condition or to the rules. The board decided to add it as a condition/process to see how it works before making it a procedural rule not all applications require an as-built.

### **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 9:15 p.m.

Respectfully Submitted,  
Stacy Bolduc,  
Recording Secretary