

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

Freedom Zoning Board of Adjustment: **June 28, 2022**

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

Absent: Vice Chairman Craig Niiler, Peter Keenan, Jeff Fongemie (A), Jacob Stephen (A),

**It was decided Denny would sit for Craig, and Tim would sit in for Peter.**

Public: Kate Foss, Ben Delorge, Roberta McCarthy, Susan Marks, Jean Marshall, Brian Taylor, Carole Taylor, Pam DiGregorio, Marcia Santner.

During this meeting, the following cases will be heard:

**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**

**Application 42-10-22 Roberta MacCarthy**

**Application 22-75-22 Peter & Rhonda Cerbone**

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.

The board accepted May 10, 2022, minutes with the following amendments:

Pg. 5 third paragraph correct the spelling of Redi Rock to Redi Rock.

Pg. 6 under other points discussed in the first bullet point, change the word bad to insignificant.

Chairman Lees made a motion to accept the May 10, 2022 meeting with amendments, motion seconded by Karl;

Motion passed 5-0-0.

The May 24, minutes were accepted with the following amendments: John questioned if there should be more discussion on rights to a view. Karl stated there was discussion on page 4. Pg 7 line 298 correct the spelling change Danial to Daniel. Chairman Lees made a motion to accept the May 24, 2022 meeting with amendments, motion seconded by Karl; Motion passed 5-0-0.

The June 1, 2022 minutes were accepted as written. Chairman Lees made a motion, seconded by Karl to accept the June 1, 2022 minutes as written; Motion passed 5-0-0.

**Application # 25-10-22 Caitlin C. Sackman Revocable Trust (Continued a second time from May 24<sup>th</sup> )**

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.

Jim Rines presented this application. He had an updated plan that added a dimension to a proposed structure that was not on the plan submitted to the office. The board agreed to accept the updated plan that showed the dimension. A cross section was added to the plan that the board requested. The two walls that were constructed before they realized they needed a permit are 22.9 and 22.5 feet from the shoreline. The wall in the front that has not been built will be 62.1 feet at the closest point from the shoreline and will not violate the side yard setbacks and be no higher than three feet allowing, for a 6% grade from the walkout. The retaining wall on the southeast side is 13.1 feet away. The photographs submitted answer the question about drainage going towards the southerly abutter. This project did not change the drainage patterns.

Jim offered to go through the five criteria. The board declined. Denny asked why the front retaining wall (wall # 4) had to be far away from the staircase. He thinks the wall would be more conforming if pushed back. Jim responded that the intent was to be 15' from the face of the deck and the stairs that are coming down are to get out from under the deck. Chairman Lees has no problem with walls one and two. He would like wall three to be moved further away from the property line and he also agrees with Denny's comment about wall number four. Wall number four is no higher than 3'. Jim stated the wall that was removed was much closer to the lake than the proposed one, which was 20' further back than the house that was removed.

There was no public or abutters to speak.

John did not have a problem with walls one and two. Wall number three has to be there, but he does not think the configuration is fair to the abutter. He thinks the water will accelerate, and it will drain towards the Tersolo property when it hits the retaining wall. He wants to see the opposite configuration to prevent this from happening. Jim confirmed the average slope to the water. Denny agrees with John on wall three and does not support wall four, there would be no need for the front setback if it were pushed back. Tim wants to see a swale for water runoff and direct the runoff towards their property. Tim had no findings with the other walls. Karl had no issues with one and two, three has been talked about, and he would like wall four to get smaller. He understands the argument for the house, but a variance is now needed for three different sides. Jim thinks wall four can be moved back to be compliant. He will look at moving it back, possibly 10'. That would be 4' variance on the north side and almost compliant on the south side. Wall three, Jim said he could look at putting in a dry well to catch the runoff. The stone drip edges should prevent some of the runoff. The wall (three) is for access to a doorway. Configuration was briefly discussed for wall three. Jim will look at engineering something to capture the runoff and infiltrate it. John wants to see the plan before he approves the application.

Jim Rines asked for this application to be continued until July so he can update the plans to push back wall four, design a dry well and infiltration system for wall three and possibly reconfigure the wall.

**Chairman Lees made a motion to continue this application until July 26, 2022, motion seconded by Karl; motion passed 5-0-0.**

**Application 31-27-22 Scott C. Johnson Revocable Trust ( Continued a second time from May 24<sup>th</sup>)**

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.

Jim Rines presented this application. Since the last application Jim explained a blue spruce and a fat albert was added to the planting plan to soften the visual impact of the wall on the water side.

Jim had a new plan that was accepted by the board due to an offset issue. Scott is not concerned with the wall violating the setback to the lake but would like to see the two sidewalls reconstructed and be more conforming. Karl raised a concern that the approved erosion control is not being followed. Jim said it is further downslope than what the plan states. Karl responded conditions state “per plan.” Jim did not argue that point but said the idea is to prevent erosion from going into the lake. The original plan used a silt log and the plan stated they are using a silt fence. John does not support the updated planting plan adding spruce and a fat Albert tree. He thinks the trees will be a problem after a while and would rather see creeping plants down the wall. He is fine with the sidewalls and the front wall. Denny was concerned with the direction of the stairs. Tim has no problem with the 24.2 sideline setback and the wall in the front but would like to see a fence around the edges. He agrees with John about adding trees to the planting plan. Karl wants to see the sidewall violations be fixed. John commented that when they saw a walkout basement on the plan, they should have done a site visit. Then they would have known about the front wall and the board could have granted a variance to push the house closer to North Broad Bay Rd. before the start of construction, meeting the 75' setback from the water or make the house smaller. In conclusion the south wall has to be fixed though Jim does not know how much he can bring the wall in. Gary confirmed that there are utilities and a propane tank to consider for correcting the sidewall. Karl wants the erosion control followed that was approved. They should be using silt sock.

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 3-2.**
3. Substantial justice is done by granting the variance. **Carried 3-2.**
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 3-2.**
    - (ii) The proposed use is a reasonable one. **Motion carried 4-1.**

**Conditions:**

1. **Per the Plan dated 6/22/2022 titled The Scott C. Johnson Revocable Trust, Scott C. Johnson Trustee.**
2. **Work with the Town Building Inspector for any wall that will require a rail.**

3. Remove proposed landscaping.
4. Town shall inspect existing erosion control and require any deviations from the approved Erosion Control plan to be rectified.

**Findings of Facts:**

1. Per plan
2. Work with Town Building Inspector on the walls that need rails.
3. Remove proposed landscaping.
4. The town shall inspect existing erosion control and correct if necessary.

**Motion: Denny 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. Tim seconded the motion; Motion carried 3-2.**

**Application 26-9-22 Foss-Delorge Rev. Trust** (Continued from May 24<sup>th</sup>)

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.

Jim Rines presented this application. This application was continued from last month so the board could do a site visit. At the site visit, it was explained that this wall was built by hand and no heavy equipment was used to build the wall, and the purpose of the visit was to get an idea of what the wall looked like from the top of the wall looking down. The wall is unfinished. Jim offered to go through the five criteria, the board did not think that was necessary. Karl confirmed that this site is under a cease and desist and only affects the completion of the wall. John confirmed that the cease and desist only affects the unfinished portion. Karl asked if an application has been filed with the State. Jim explained no application had been submitted to the State. However, the State is aware of the situation. If the board approved the application, they would apply to the State for approval. If the board denies the application, applicants will go to selectmen for remediation, and no shoreland application to the State is required. The State would require a plan on how the wall will be removed. Chairman Lees reported that he talked to Selectmen about this application and informed Chairman Lees that the board should treat this application like any other one. If it's approvable, approve it. If not, then deny it. If there is something the board might be able to approve, then work with the applicant to figure out what that is. After a brief pause, Karl stated that if this application came before this board just the way it is now and nothing had been built, the board would not have approved it. Tim confirmed this by stating that encroachment would never have been allowed.

The plan was briefly reviewed for Denny, sitting in for Craig tonight. Jim explained the plan is as-built and the neighbor that is encroached upon also has a wall that comes up to the boundary line and does not have a problem with the encroachment. Jim further explained that the neighbor with the encroachment would also have to submit an application for the portion of the wall on their property that is in violation. The portion of the wall that is encroaching could be cut with feathers and wedges and drilled if that was the board's only concern but Jim recognizes this is not the board's only concern. Jim proposed eliminating seating that required a wall higher than the existing wall if that would make this project more acceptable to the board. **Comments from the board:**

**Chairman Lees** said it was too much, and it was nothing that would have gotten approved.

**Karl** expressed that he does not like voting down an application instead he likes working with people to get an approval but does not think this board can solve the problem. This is for Selectmen to figure out a solution.

**Denny** thinks the intent was good but made the conditions on the steep slope worse and would feel better with something engineered. He thinks it will wash out. Jim responded the project has been sitting stagnant since last fall, and vegetation is starting to grow through it, even more so than a few weeks ago.

**John** agrees with Karl that when he looks at a plan, he tries to find a middle ground, and he can't say that under any scenario, he would have ever gone for this project. He questions if a structural engineer could be consulted to confirm the viability of the wall. He's questions if the wall would still be there in 10 years but concludes that this is a separate issue entirely. He cannot come up with a solution to the problem either. He further commented it's ridiculous that an axel rod sticking out of the ground over the lot line, but that is the least of his concern. He wishes that the Town had a more active enforcement role. Instead of waiting for someone to call in a complaint, it would be better for the Town to have looked at this, before someone complained and the applicant would not be in this situation.

**Tim** appreciates the fact that the rocks were laid by hand and thinks the rock is natural to the area and does not like the look of redi rock. He also supports the switchback path because it is not a straight shot down to the lake. It works the same way as a snowmobile trail with switchbacks to help with steepness. He would support working with the applicant regarding a compromise with the sitting area and getting the encroachment corrected and whatever else they can do not to bring in heavy equipment that would disturb the property that was not disturbed in the first place.

Chairman Lees stated to Jim that after listening to the board's comments, this is more than the board will approve, and there is such a significant impact the board does not know how to approach this project. Jim responded he understands and cannot recommend a compromise without getting rid of the sitting area, and he does not know what to take out to make the project acceptable. Jim didn't think he could withdraw the application because he didn't know what he would come back with and there is a cease and desist on the property. One of the criteria of that order is to come to the zoning board for an after- the fact- approval which the applicant has done. Jim concluded the board has to act on what is in front of them for a plan.

Chairman Lees asked if there were any abutters or public who would like to speak to this application There were no abutters or public that wished to speak to the application.

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. **Defeated 0-5.**

**Reason: The people of the Town of Freedom through the Zoning Ordinance, are looking to maintain a buffer for structures between properties that this application does not adhere to.**

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

**Reason: The proposed application has improvements that are from property line to property line which means there are 0 setbacks; therefore, the spirit of the ordinance is not observed.**

3. Substantial justice is done by granting the variance. **Defeated 0-5.**

**Reason: No hardship was given by the applicants in regards to the existing path to the shore frontage to allow for a secondary access which violates three town setback requirements.**

4. The value of surrounding properties is not diminished if the variance is granted. **Defeated 0-5.**

**Reason: Allowing this improvement would remove the natural character of the shoreline which would diminish surrounding property values.**

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 Defeated 0-5.**

**Reason: The proposed improvements for a path are not needed as there exists a pathway to the shore frontage.**

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

**Reason: Sense there is an existing pathway to the shore frontage additional access is not needed.**

### **Conditions:**

### **Findings of Facts:**

1. Lot has an existing staircase to the shorefront.
2. Slope Stabilization methods were not needed as the embankment was stable prior to any earth disturbance.
3. Improvements shown violate property lines.

**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 Defeated 0-5.**

Chairman Lees asked Jim if he wanted the board to go through the variance worksheet for 906.2 and 906.3 or does he want to withdraw the variances requests. The request for erosion control was withdrawn. It was decided to go through the worksheets for variance requests for Article 9 Section 906.2 and 906.3. which is for the lower retaining wall that would have been added to the stairs.

The board elected to review the Variance worksheet for Article 9, Section 906.2:

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. **Defeated 0-5.**

**Reason: The people of the Town of Freedom through the Zoning Ordinance are looking to maintain a buffer for structures between properties that this application does not adhere to.**

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

**Reason: The proposed application has improvements that are from property line to property line which means there is 0 setbacks, therefore the spirit of the ordinance is not observed.**

3.Substantial justice is done by granting the variance. **Defeated 0-5.**

**Reason: No hardship was given by the applicants in regards to the existing path to the shore frontage to allow for a secondary access which violates three town setback requirements.**

4.The value of surrounding properties is not diminished if the variance is granted. **Defeated 0-5.**

**Reason: Allowing this improvement would remove the natural character of the shoreline which would diminish surrounding property values.**

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 Defeated 0-5.**

**Reason: The proposed improvements for a path are not needed as there exists a pathway to the shore frontage.**

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

**Reason: Sense there is an existing pathway to the shore frontage additional access is not needed.**

### **Conditions:**

### **Findings of Facts:**

2. Lot has existing staircase to the shorefront.
3. Slope Stabilization methods were not needed as the embankment was stable prior to any earth disturbance.
4. Improvements shown violate property lines.

**Motion: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested Variance from Article 9, Section 906.2 of the Town of Freedom Zoning Ordinance be granted with conditions. Karl seconded the motion; Motion Defeated 0-5.**

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

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. **Defeated 0-5.**

**Reason: Since this variance request is part of the project that was denied this evening from Article 3 Section 304.5 this portion of the project must also be denied.**

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

**Reason: Since this variance request is part of the project that was denied this evening from Article 3 Section 304.5 this portion of the project must also be denied.**

3.Substantial justice is done by granting the variance. **Defeated 0-5.**

**Reason: Since this variance request is part of the project that was denied this evening from Article 3 Section 304.5 this portion of the project must also be denied.**

4.The value of surrounding properties is not diminished if the variance is granted. **Defeated 0-5.**

**Reason: Since this variance request is part of the project that was denied this evening from Article 3 Section 304.5 this portion of the project must also be denied.**

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 Defeated 0-5.**

**Reason: Since this variance request is part of the project that was denied this evening from Article 3 Section 304.5 this portion of the project must also be denied.**

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

**Reason: Since this variance request is part of the project that was denied this evening from Article 3 Section 304.5 this portion of the project must also be denied.**

### **Conditions:**

### **Findings of Facts:**

1.Lot has existing staircase to the shorefront.

2.Slope Stabilization methods were not needed as the embankment was stable prior to any earth disturbance.

3.Improvements shown violate property lines.

**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. Karl seconded the motion; Motion Defeated 0-5.**

Chairman Lees explained the 30-day appeal process.

**Application 42-10-22 Roberta MacCarthy**

Applicant wishes to remove an existing exterior stair case and replace it with a covered 4' wide and 23' 10" long accessible ramp and add a 10'x15' roof/deck over ½ of the existing lower concrete terrace outside the basement door which will provide snow protection at the basement door and will also serve as a small accessible outdoor living area at the living room level.

Roberta MacCarthy came before the board to present her application. She the alterations that are being proposed is make the house more accessible while she ages. She pointed out that the proposed project is not increasing the impervious surface and the footings for the proposed deck and ramp exists now and no trees will be cut. She is proposing a deck over the existing concrete terrace but will end at the location of the lower door beyond which no snow shelter is needed. The proposed deck and ramp do not extend beyond the footprint of the current concrete stairs and terraces. Both will be made of wood and will be a permeable surface. John questioned why this application was before the board. Karl said if she is staying within the current concrete with everything, she is doing including the drip edge then this application would not have come before the board. Roberta confirmed the drip edge is within the concrete area.

Zoning Officer Gary Williams explained that Roberta told him that she wanted to expand towards the shoreline with height. He called the State and they told him their concern would be to hold the roofline in, so that the drip line falls on the concrete like it does today. It was confirmed the stairs will be roofed and the deck will be over the patio acting as a roof. The deck is the expansion towards the shoreline and reason why the application is before the board. Gary said the State does not require the variance, it's the way he interpreted the ordinance but if the board disagrees, he is happy with that. Chairman Lees stated it was right for this application to come before the board to make it cleaner for the applicant. None of the board members have a problem with the application. Chairman Lees asked if there were any abutters who would like to speak.

**Susan Marks-** spoke in favor of the application and its intent.

**Jean Marshall-** spoke in favor of the application.

**Brian Taylor-** stated this will be a great safety improvement for the applicant and there will be no ground disturbance.

**Mark McConkey-** spoke in favor of the application.

**Marcia Cunningham Santner-** is in favor of the application and stated Roberta is very smart and thinks everything through.

**Pam DiGregorio-** A friend of Roberta's supports the application.

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:**

- 5. Per the Plan dated 6/28/2022 titled 21 Packard Drive Freedom NH, Town Map 42 lot 10.**

**Findings of Facts:**

- 1. Per the Plan dated 6/28/2022 titled 21 Packard Drive Freedom NH, Town Map 42 lot 10.**

**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.**

Chairman Lees explained the 30-day appeal period and the variance is good for two years.

**Application 22-75-22 Peter & Rhonda Cerbone**

Applicant wishes to construct a new home, driveway, and septic system. Variance is for house/garage to the rear lot line.

Mark McConkey came before the board to present this application and explained last year the board approved a variance for a septic system for a previous owner. The new owner of the property is maximizing his house. when they staked out the house for the sidelines it was discovered that they were incorrect on the curvature of the driveway down below and they were off on one of the sidelines. As a result, the house no longer fit in the building envelope. They could not meet the rear sideline setback and have since gotten permission from the abutters to grant a variance for their common lot line. Chairman Lees asked if the board was ready to vote on this application. There was a brief discussion around the closest point.

The board elected to review the Variance worksheet for Article 3, Section 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.**

**Conditions:**

- 6. Per the Plan titled Peter Cerbone, dated 6/8/22 12 Comanche Circle Bradford, MA 01835**

### **Findings of Facts:**

- 1. Per the Plan titled Peter Cerbone, dated 6/8/22 12 Comanche Circle Bradford, MA 01835**

**Motion: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested Variance from Article 3, Section 304.2 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 period.

### **Public Meeting**

John suggested asking Selectmen about giving some thought to having the zoning officer do a pre-site visit to ensure everyone understands the plan. This would not have prevented the Foss-Delorge incident but would have ensured contractors understood the plan. The shorefront is the biggest concern. Chairman Lees said if John would like to call Ellen and get on the agenda with Selectmen, he would go with him to discuss the idea. There was a discussion around retaining walls being considered structures. John wishes it could be better defined what is a structure in the shoreline zone vs. the none shoreline zone. Gary said a lot of towns do not have retaining walls as structures. Gary is proposing doing away with retaining walls as structures in the zoning ordinance, but they would be part of erosion control in the shorefront zone. Chairman Lees said in the handbook they are considered structures. Discussion ensued around the pros and cons of this proposal.

The board briefly discussed the reasons for the denial of the Foss-Delorge application. The reasons for the denial include: The impact of the sideline setback is too great to meet the intent of the zoning ordinance, John stated the wall was more for ascetics than for a need to hold the bank back, and it serves no purpose. Craig stated that the application would not have been approved as presented. Article 9 Section 906.3 for height was not approved because it is subsidiary to the plan that is denied. John asked that the town attorney review the boards reasons for denying the application to ensure wording is correct. Chairman Lees will contact the town attorney.

Pam Keith has requested to be on the board. She will serve as an alternate.

### **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 9:45 p.m.

Respectfully Submitted,  
Stacy Bolduc,  
Recording Secretary