

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

Freedom Zoning Board of Adjustment: **August 23, 2022**

Present: Chairman Scott Lees, Vice Chairman Craig Niiler, Karl Ogren, Denny Anderson (A), Peter Keenan, Zoning Officer Gary Williams, Recording Secretary Stacy Bolduc.

Absent: Jeff Fongemie (A), Jacob Stephen

Public: Pam Keith, Lynda Latta, Walter Latta Jr., Walter Latta Sr., Ray Melvin, Kerry Fox, Bruce Howlett, Mark Cadman, Heather Kiley.

During this meeting the following applications will be heard:

Application # 29-6-22- Raymond Melvin

Application # 33-10-22 Walter, Courtney, and Lynda Latta

Application # 1-16-22 Carroll County YMCA, Inc., -Camp Huckins

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.

PUBLIC MEETING

Karl made the motion, seconded by Denny to accept the minutes of the June 28, 2022 meeting with the following amendments:

Application # 31-24-22 change motion to read “ *Denny made a motion seconded by Tim*” from “ *Chairman Lees made a motion, seconded by Karl.*” Motion passed 5-0-0.

Vice Chair Niiler made a motion to accept the July 26th meeting minutes, seconded by Karl with the following amendment: Change the date from July 27th to July 26th ; Motion passed 5-0-0.

PUBLIC HEARING

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

Applicant seeks an appeal for the following:

Special Exception from Article 3 Section 304.5 Table Shorefront District for Lakes & Ponds over 10 acres & Ossipee River.

Special Exception for Article 3 Section 304.6.3 for Erosion Control

Special Exception for Article 3 Section 703.05 any tree cutting between seventy-five (75) and three hundred (300) feet of the reference line.

Special Exception for Article 3 Section 703.5.1 Construction or site work of any kind is taking place in an area that slopes at greater than 12.5% towards the lake.

At Map 29 Lot 6 Located at Huckins Rd Zone: General Residential.

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Kerry Fox presented this application continued from July 26th. He explained to Chairman Lees that he did not include map 1 of 2 maps in the packet and asked permission to submit it to the board tonight. Though sheet 2 has everything that the board asked for they accepted sheet 1 tonight because it does not change any information that the public might need. Kerry explained that the owner took the advice of the board and reviewed all the changes the board requested at the last meeting and made the following changes: moved the garage back 10' to give more space, extended the infiltration trench along the entire length of the driveway, revised silt fence to be a silt sock, revised driveway access based on garage door openings and added rip/rap construction details for driveway drainage and infiltration swale at the northerly corner of the garage. There was no public and abutter to speak.

Craig stated that the plan has everything the board asked for. The board had no further comments.

The board elected to review the Special Exception worksheet and do a straight-up vote for Article 3, Section 304.5 Table, Article 3 Section 304.6.3, Article 7 Section 703.05, and Article 7 Section 703.5.1.

A- 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: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested Special Exception(s) from Article 3 , Section 304.5 table, Article 3 Section 304.6.3, Article 7 Section 703.05 and Article 7 Section 703.5.1 of the Town of Freedom Zoning Ordinance be granted with conditions. Craig seconded the motion; Motion carried 5-0.

Conditions:

- 1. Per the Plan titled Raymond J. Melvin 442 Huckins Rd. Freedom- Carroll County dated July 8, 2022.**
- 2. Erosion Control shall be in place prior to any earth moving and shall remain in place until construction is complete and site is stabilized.**

Findings of Facts:

- 1. Applicant has made all revisions requested by the board.**
- 2. All construction takes place within Town of Freedom building envelope.**

Chairman Lees explained the 30- day appeal period and the Special Exceptions expires 8/23/2024.

Chairman Lees invited Application# 33-10-22 Walter, Courtney, and Lynda Latta

Applicant wishes to expand an existing non-conforming patio with the permit tree removal below the required tree count. The applicant is also seeking an after-the-fact Special Exception for the removal of trees within 300' of the shoreline.

Applicant requests the following:

Special exception from Article 7 Section 703.05 any cutting between 75' and 300' of the reference line shall require a cutting plan to be approved by the ZBA.

Variance from Article 3 Section 304.5 Table

Variance from Article 9 Section 906.02 the expansion or extension shall not violate the side yard or rear yard setback.

Variance from Article 7 Section 703.04 for the tree count points to be less than allowed.

At map 33 Lot 10 Located at 69 West Danforth Rd. Zone: General Residential.

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Jim Rines from Horizons and Walter Latta Jr. came before the board to present this application. Jim explained this lot has no water frontage but is 8 ft. from Danforth Pond placing it in the Shorefront District.

The applicant is seeking a variance from Article 3 Section 304.5 and Article 9 Section 906.2 to complete the expansion of an existing old, abandoned patio within the side and rear setback, expanding it to 15'x 13'. The patio with a fire ring was started without a permit last fall. The patio will be within 0.4' to the rear boundary line to which the applicants have a deeded common interest to the abutting lot that will not be developed and within 18.3 feet of the easterly boundary line which is a right-of-way to a common lot that is around 32'. Though the existing patio is grandfathered the original size of the patio is not known, the proposed patio is bigger than the original one. The applicants would also like to replace the existing stairs that are rotted that led to the old patio.

The applicant is also seeking an after- the- fact Special Exception from Article 7 Section 703.4 to allow the tree count below points in grids 2 and 3. Trees were removed in grids 3 and 4 but are still compliant with town regulations. Grid 2 has a single pine tree whose stump was 13" at 4.5 feet above ground it's assumed it would have been less than 12" in diameter and the value would have been 10 points. Applicant is seeking a variance from replacing those 10 points. There was a large tree in grid 3 that had 81 points worth of trees 26 points were on land sloping toward the lake with a large 15-point white pine on the roadside of the house sloping away from the lake. This grid now has 40 points. The 15 -point tree was removed because of its size and the proximity to the home, and the large limbs were coming down during storms and there was another 16" white pine that was 11' from the deck removed for the same reason. Both trees may have been eligible for removal by the Zoning Officer because they were dead and dangerous. Applicant is seeking a variance from replacing the 11 remaining points.

The board elected not to have Jim go through the 5 criteria for the variance. Jim did mention the hardship is that this is a unique property. This lot is a non-waterfront lot that falls within 300 feet of the lake and they have a common interest in the lot that abuts this property that will never be developed and they have a right of way that surrounds the property so there is no violation of a setback to an abutting homeowner.

The right of way was briefly discussed and how it is used. The patio is bigger than the old patio. There was a question if the stairs and deck were permitted. The recording secretary stated she only looks at the ZBA files so there may be a permit in the building files. It was concluded that they may have been built before the town had zoning in 1987. The house was built in the 70's.

Chairman Lees asked if the patio were to be built in the same footprint how much would it have to be pulled back from the property line? Jim estimated a few feet. He could not give a definitive answer because the old patio footprint is gone. A boundary survey was done because the owners did not know where the boundary lines were.

Questions from the public:

Bruce Howlett on behalf of The Friends of Danforth Pond (30 of 71 homeowners in that area belong to the group) With the aid of a handout expressed concern for the water running off into the pond and causing cyanobacteria. He continued to explain that this location is an area of concern and explained how the water in that area is running into the pond.

Concerns the group has:

- They would like to see a berm or other best practices in place to prevent water from running down the walkway to the slope.
- If the fire pit is legal then they need 25 ft. of organic material.
- Any impervious surfaces that may cause runoff and contribute to the cyanobacteria problem (the proposed patio).

Mr. Latta responded in the time that he has owned the property he has not owned a golf cart, ATV or snowmobile, or any recreational vehicle with aggressive tires to go up and down the paths contributing to the erosion problems.

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He is trying to make the property safer by eliminating the dead and dangerous trees that were a threat to the house and deck. He did not know about getting a permit to cut the trees and apologized for that.

Mr. Latta Sr. reiterated Mr. Hewlett's statement has nothing to do with this application. He contributes the way the road is constructed to the issues that Danforth Bay has and detailed the dips in the road.

Mr. Howlett responded that the biggest concern is the little pieces that contribute to the runoff and reiterated the use of a berm. If the best practices are not enforced then the problem in Danforth Bay will be exaggerated over time.

Jim Rines confirmed the actual dimensions of the patio are 181 square feet not 350' that the Latta's had hoped for due to the boundary lines and storm water mitigation can be added around the house and other places if there is a concern. Craig asked how hard is it to add stormwater retention or infiltration on the downhill edge of the stairs and deck. Jim stated it could be added to the two sides and at the bottom step before stepping onto the patio. Using infiltration block was discussed. Chairman Lees would like to see trees added possibly making the patio smaller and would like to see the patio more than 0.4' away from the property line. Craig agreed he would like to see plantings and would like to see mitigation added. Karl agreed and would like to see plantings. Peter would like to see more protection and plantings added as well. Denny suggested making the patio narrower to add something for water runoff and also supports plantings.

Jim asked for a 5-minute recess to discuss the matter with his client.

Jim came back and asked that this application be continued until next month to incorporate some of the changes. Trees vs. blueberry bushes or shrubs being planted were briefly discussed. Grid 3 has lost more than half its points.

There are no pictures to support the trees that had to be removed.

Chairman Lees made a motion to continue this application until September 27th meeting, motion seconded by Karl; Motion passed 5-0-0.

Chairman Lees invited case # 1-16-22 Carroll County YMCA

Applicant wishes to permit the installation of erosion and sediment control measures within the shorefront district. The applicants are proposing to construct a new bath house and sewage disposal system and a 12' extension on existing building #9.

Applicant requests the following:

Special Exception from Article 3 Section 304.6.3 special exceptions for erosion control.

At map 1 Lot 16 Located at 17 Camp Huckins Rd. Zone: Broad Bay General Residential.

The board found no issues with this application and there was no public or abutters present to speak.

Chairmen Lees asked if the board had any other questions.

Questions from the board:

None.

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

A- 5-0 motion carried

J- 5-0 motion carried

A- 5-0 motion carried

K- 5-0 motion carried

H- 5-0 motion carried

L- 5-0 motion carried

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Conditions:

- 3. Per the Plan titled Overall Site Plan for Carroll County YMCA Inc. “Camp Huckins” 17 Huckins Rd. Freedom, New Hampshire dated 8/8/2022.**
- 4. Erosion Control shall be installed prior to any construction and remain in place until construction is complete and site is stabilized.**

Findings of Facts:

- 1. Proposed construction meets town ordinance.**
- 2. Erosion control and location and type is acceptable.**

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 8/23/2024

Public Meeting

Pam Keith joined the table and was introduced by Chairman Lees to board members. She explained her background. Chairman Lees updated the board, that since the last ZBA meeting there have been some changes regarding board members. John Krebs met with Selectmen to discuss their concerns on how the Haverhill St. project was handled under his supervision as General Contractor. As a result of that meeting John decided to resign his position on the ZBA board. Selectman disagreed with John on his handling of the project and the problems associated with it being a member of the Zoning Board of Adjustment. Board members expressed their disappointment in the outcome of the meeting resulting in his resignation and expressed their appreciation for John’s knowledge that he brought to the table as a general contractor and his experience as a planner will be greatly missed. A letter of appreciation will be drafted for the next meeting.

As a result, Denny Anderson was recommended as a full time ZBA board member and Pam Keith was recommended as an alternate. Denny and Pam both accepted their positions. The land use changes were briefly reviewed.

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 8:40 p.m.

Respectfully Submitted,
Stacy Bolduc,
Recording Secretary

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