

# ZONING BOARD OF ADJUSTMENT

P.O. Box 227

Freedom, NH 03836

## Minutes

Freedom Zoning Board of Adjustment: **August 22, 2023**

Present: Chairman Scott Lees, Vice Chairman Craig Niiler, Karl Ogren, Zoning Officer/Building Inspector Gary Williams, Denny Anderson, Tim Cupka (A), Daniel Footit (A), Pam Keith (A), Recording Secretary Lindsay Pettengill.

Absent: Jacob Stephen (A), Peter Keenan

Public: Brian Taylor, Peter Cooke, Lawrence Claveau, Melissa McGuire, Schail Uswani, Susan Cheever, Amy White, Jon Springer, Paul Elie, Larry Foss, Scott Pettengill, James Rines, Susan Marks, Roberta McCarthy

During this meeting, the following cases will be heard:

### **Application # 28-24-23 GMR Holdings of NH, LLC**

Applicant seeks to permit, construct, and operate a wireless telecommunications service facility at 375 Pequawket Trail.

Applicant is requesting the following:

Variance Article 17 Section 1706.1 Height

Variance Article 17 Section 1707.10 Mounting

**Property is located at 375 Pequawket Trail. Map 28 Lot 24**

### **Application # 42-11-1-23 Marks Brothers Production Co. LLC**

Applicant is seeking to replace an existing, failing, nonconforming concrete retaining wall with a stone-faced concrete retaining wall and installation of a new retaining wall, within the shoreline and side yard setback.

Also, for replacement and expansion of concrete stairway with concrete & granite steps.

Applicant is requesting the following:

Special Exception from Article 3 Section 304.6 Erosion control

Variance from Article 3 Section 304.5 Table Shorefront

Variance from Article 7 Section 704.4 Shoreland

**Property is located at 37 Packard Dr. Map 42 Lot 11-1**

### **Application # 7-5-1-23 Sherwood Forest LLC**

Applicant seeks a Special Exception for erosion control for the conversion of an existing paved volleyball court to a sand volleyball court, also to remove a rotten retaining wall and install erosion and sediment control measures within the shorefront district. Applicant is requesting the following:

Special Exception Article 3 Section 304.6.3 Erosion Control

**Property is located at 65 Robinhood Lane. Map 7 Lot 5-1**

### **Application # 41-62-23 Sean & Melissa McGuire**

Applicant seeks a variance to cover an existing deck and walkway.

Applicant is requesting the following:

Variance Article 9 Section 906.2 side setback  
**Property is located at 24 Laurentian Dr. Map 41 Lot 62**

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

Chairman Lees introduced the Board to the Public. Noted that Dan Footit was sitting with the board however not voting.

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**

**Denny Anderson made the motion, seconded by Craig Niiler, to approve the meeting minutes of August 8, 2023. All were in favor. APPROVED**

#### **Application # 28-24-23 GMR Holdings of NH, LLC**

Attorney Jon Springer, appeared before the board representing GMR Holdings of NH, LLC in the request for a Variance from Article 17 Section 1706.1 for height and from Article 17 Section 1707.10 for Mounting of proposed Cell Tower at 375 Pequawket Trail.

#### Points of Discussion:

- Located on a 19 acre parcel of land, currently a gravel pit
- Access Rd will be located on West Side of property
- Fall Zone of 160' within setbacks
- 175' Vegetative buffer in Lease Amendment
- 60' by 60' fenced and gated compound with 160' Monopole
- Signed Agreement with Verizon.
- Emergency diesel generator
- Monopole (stronger than Mast) design, made of galvanized steel
- Alternate site study found no way to coapply on another tower
- No lights on tower
- Routine maintenance will be performed 1-2 times a month or as needed
- No impact to town/environment
- 3 Future antennas for future carriers to lease/coapply from – 10ft space between each carrier w/Verizon on top
- Uses Line of Sight Technology which is why it needs to be above tree line to get best service
- Believe that two towers (proposed GMR and proposed Blue Sky) will compliment each other and bring the coverage needed to the area

Jon submitted a map with projected area coverage with Blue Sky Towers to show the coverage they both bring to the town.

#### Board discussion:

- Applicant submitted the incorrect section number for the height variance. It will need to be renoticed with the correct section number of 1706.3.

- If entire plot is being leased or just the pad? – 100’ by 100’ area to be leased
- Mast vs. Monopole – Monopole is thicker. Base – 4ft diameter then taper to the top at 2-3 ft.
- Width with Antenna’s – approx. 10’ sq.
- Balloon Test – later scheduled to Saturday Sept 23<sup>rd</sup> from 9-11, Rain date Sept 24<sup>th</sup>.
- Avg Tree height – Jon will get for next meeting
- Deisel generator – 50 KW but will bring additional specs for next meeting
- Each carrier would possibly have a generator

Abutters: Larry Foss-would like to know if owner will keep using other parts of property and concerned about them cutting more of the buffer down and also questions whether it will lower surrounding property values.

Lawrence Claveau – Concerned about RF (Radio Frequency) affects on animals and such outside the fence line and if there would be any open wires. Jon states no wires and the max exposure is at the top of the tower at the antennas and exposure outside of the site at ground level is minimal.

Public: Paul Elie- Asked if Spectrum was a carrier looking to come on. Jon states Spectrum is part of Verizon so they will use this tower. Also, has it been determined if they will camouflage the tower, Jon states it is not necessary at this time.

Brian Taylor – Requested the balloon size used in the future test. – 4ft

Chairman Lees and the board request the following:

- Balloon Test – Scheduled for Saturday Sept 23<sup>rd</sup> from 9-11, Rain date Sept 24<sup>th</sup>.
- Tree Height in tower area
- RF Study
- Generator Specs
- Correct notice of Section 1706.3 – provide a check to town for abutters notices

**Chairman Lees, seconded by Karl made a motion to continue the application to the October 24, 2023 Meeting. All were in favor.**

### **Application # 42-11-1-23 Marks Brothers Production Co. LLC**

Jim Rines appeared before the board, representing the Marks Brothers Production Company. Applicant wishes to replace an existing, failing, nonconforming concrete retaining wall with a stone-faced concrete retaining wall and install a new retaining wall, within the shoreline and side yard setback. Also, to replace and expand the concrete stairway with concrete & granite steps that will be more conforming and functional by turning toward the house at the top. They also seek a variance from Article 7 Section 704.4 to remove 1 - 4” spruce tree, therefore allowing the tree count to be 5 points below the 35 point requirement. The space in between the two walls will be sloped and allow for planting.

Jim showed the board pictures of the current wall condition. The board discussed making sure that the new sloping space between the walls would not become another patio area or fire pit. The lower wall currently gradually slopes and the new one will step down every few feet. Proper drainage was discussed and it is included in the plan.

Abutters: Susan Marks has no objections as the other end of the wall belongs to her and it is deteriorating. No Public comment.

The Board elected to vote straight up for both Variances as well as the Special Exception. Passed 5-0

### **Variance from Article 3 Section 304.5 Table**

- 1. 5-0 Motion Carried**
- 2. 5-0 Motion Carried**
- 3. 5-0 Motion Carried**
- 4. 5-0 Motion Carried**
- 5. A. 5-0 Motion Carried**
  - i. 5-0 Motion Carried**
  - ii. 5-0 Motion Carried**

#### **Conditions:**

- 1. Per Plan titled Zoning Application Plan and Dated August 7, 2023.**
- 2. Per Approval of NHDES Shoreland Application.**

#### **Findings of Facts:**

- 1. Existing wall predates zoning: likely built prior to 1940**
- 2. Existing wall is in disrepair**
- 3. Proposed plan will provide proper drainage, proper stair, etc.**
- 4. Shoreline and beach contour/grade will not be changed**

### **Variance from Article 7 Section 704.4**

- 1. 5-0 Motion Carried**
- 2. 5-0 Motion Carried**
- 3. 5-0 Motion Carried**
- 4. 5-0 Motion Carried**
- 5. A. 5-0 Motion Carried**
  - i. 5-0 Motion Carried**
  - ii. 5-0 Motion Carried**

#### **Conditions:**

- 1. Per Plan titled Zoning Application Plan and Dated August 7, 2023.**
- 2. Per Approval of NHDES Shoreland Application.**

#### **Findings of Facts:**

- 1. Existing wall predates zoning: likely built prior to 1940**
- 2. Existing wall is in disrepair**
- 3. Proposed plan will provide proper drainage, proper stair, etc.**
- 4. Shoreline and beach contour/grade will not be changed**

### **Special Exception Article 3 Section 304.6.3**

- |                              |                              |
|------------------------------|------------------------------|
| <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> |

#### **Conditions:**

1. **Per Plan titled Zoning Application Plan and Dated August 7, 2023.**
2. **Per Approval of NHDES Shoreland Application.**
3. **Erosion Control shall be installed prior to any earth moving and shall remain in place until site is stabilized.**

**Findings of Facts:**

1. **Existing wall predates zoning: likely built prior to 1940**
2. **Existing wall is in disrepair**
3. **Proposed plan will provide proper drainage, proper stair, etc.**
4. **Shoreline and beach contour/grade will not be changed**

**Chairman Lees, seconded by Karl made a motion to approve the Variances from Article 3 Section 304.5 Table, Article 7 Section 704.4, and Special Exception from Article 3 Section 304.6.3. All were in favor. APPROVED 5-0**

**Application # 7-5-1-23 Sherwood Forest LLC**

Jim Rines appeared before the board, representing Sherwood Forest, LLC. The paved volleyball court in the shorefront was removed to create a sand court but there is still a rotten railroad tie type retaining wall that needs to be removed. NHDES stated they were exempt from needing the Special Exception however when they presented at a recent Planning Board Meeting the PB requested they come before the ZBA for Special Exemption for Erosion Control.

Jim showed the board a picture of the railroad tie/retaining wall.

There was no board discussion.

No Abutters or Public present for comment.

The Board elected to vote straight up for the Special Exception. Passed 5-0

**Special Exception Article 3 Section 304.6.3**

- |                              |                              |
|------------------------------|------------------------------|
| <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> |

**Conditions:**

1. **Per Plan titled Zoning Board Application Plan and Dated August 3, 2023.**
2. **Erosion Control shall be installed prior to any earth moving and shall remain in place until site is stabilized.**

**Findings of Facts:**

1. **“Proposed” work has already been completed.**

**Chairman Lees, seconded by Denny made a motion to approve the Special Exception from Article 3 Section 304.6.3. All were in favor. APPROVED 5-0**

**Application # 41-62-23 Sean & Melissa McGuire**

Melissa McGuire appeared before the board requesting a Variance from Article 9 Section 906.2 for relief of the side yard setback. She would like to put a roof over the existing deck as it is too difficult to shovel with medical issues her and her husband have.

Board agreed that the covered porch will not further infringe on setbacks than the current structures.

No Abutters or Public present for comment.

The Board elected to vote straight up for the Variance. Passed 5-0

### **Variance from Article 9 Section 906.2**

- 1. 5-0 Motion Carried**
- 2. 5-0 Motion Carried**
- 3. 5-0 Motion Carried**
- 4. 5-0 Motion Carried**
- 5. A. 5-0 Motion Carried**
  - i. 5-0 Motion Carried**
  - ii. 5-0 Motion Carried**

### **Conditions:**

- 1. Per Plan titled Plot Plan and Dated August 7, 2023.**

### **Findings of Facts:**

- 1. Page 4 Plot Plan from Application Packet should be disregarded.**
- 2. Drawing by Freedom Designs must be used.**
- 3. Proposed plan does not further infringe on setbacks than the current structures**

**Chairman Lees, seconded by Karl made a motion to approve the Variance from Article 9 Section 906.2. All were in favor. APPROVED 5-0**

### **Miscellaneous**

- Communication and miscellaneous.**

There was no mail.

Reminder the board will be attending the October 19, 2023 Planning Board Meeting and will be the first on the agenda. The board was asked to bring any questions to the September meeting where they will create a list to bring in October.

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

The meeting adjourned at 9:15 p.m.

Respectfully Submitted,

Lindsay Pettengill,  
Recording Secretary