

ZONING BOARD OF ADJUSTMENT
P.O. Box 227
Freedom, NH 03836

Minutes

Freedom Zoning Board of Adjustment: **September 26, 2023**

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

Absent: Denny Anderson, Jacob Stephen (A), Tim Cupka (A)

Public: Paul Elie, John Liguori, James Rines, Jean & Francine Dube, Sean & Nancy Munnelly, Charlene MacCurtain, Mark Beaudoin

During this meeting, the following cases will be heard:

Application # 6-8-6-23 Blue Sky Towers III, LLC (Continued from August 8, 2023)

Applicant seeks to construct and operate a wireless telecommunications tower at 61 Shawtown Road, in the Town of Freedom. The Project Site consists of an approximately 100' by 100' are to be leased from Jean and Francine Dube (together, the "Landowner"). The facility would consist of a 174' tall tower (plus an optional 5' tall lightening rod), together with other site improvements, all as shown on the site plan prepared by ProTerra Design Group, LLC. Applicant is requesting the following:

Variance Article 17 Section 1706.3 Height

Property is located at 61 Shawtown Rd. Map 6 Lot 8-6.

Application # 41-16-23 Sean & Nancy Munnelly

Applicant seeks a variance for 9' of relief of front yard setback in order to replace the current camper on the property with a 28' by 48' double wide manufactured home. Applicant requests the following:

Variance from Article 3 Section 304.2 Table Front Yard Setback

Property is located at 7 Noodnick Rd. Map 41 Lot 16.

Application # 38-6-3-23 John Liguori Separate Property Trust

Applicant is seeking to permit the installation of a residential solar array to serve the on-site residence. The proposed array needs to be installed within the front setback of the private road known as Liguori Drive in order to eliminate the need for significant tree removal to eliminate sunshade. Applicant requests the following:

Variance from Article 3 Section 304.5 Table Front Setback

Special Exception from Article 3 Section 304.6.3 Erosion control

Property is located at 6 Ligouri Dr Map 38 Lot 6-3

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

Chairman Lees introduced the Board to the Public. Noted that Dan Footit and Pam Kieth were alternates and would be sitting with the board however would not be voting on the same applications.

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

Pam Kieth made the motion, seconded by Peter Keenan, to approve the meeting minutes of August 22, 2023. All were in favor. APPROVED

Application # 6-8-6-23 Blue Sky Towers III, LLC (Continued from August 8, 2023)

Daniel Footit will be voting on this application.

Mark Beaudoin, appeared before the board continuing to represent Blue Sky Towers LLC in the request for a Variance from Article 17 Section 1706.3 for height of proposed Cell Tower at 61 Shawtown Rd.

Mark had submitted supplemental documents that were requested by the board at the August 8, 2023 hearing. Mark reviewed the documents with the board.

Mark reviewed the following supplemental documents:

- Existing radio frequency coverage plots for 170ft – originally submitted at the August 8, 2023 hearing
- Updated radio frequency height analysis coverage plots for 125ft, 150ft, 170ft
- Updated radio frequency coverage plots with the legend omitted per suggestion of Planning Board to applicant.
- Updated radio frequency height analysis coverage plots for 125ft, 150ft, 170ft (legend relocated)
- Photographic Simulation Package in connection with balloon test
- Photographic Simulation Package for locations outside 1 mile radius, in connection with balloon test
- Balloon test on-site observation and documentation summary
- Affidavit of Virtual Site Simulations
- Appointment of Authorization Forms previously submitted to Town staff August 14, 2023

Board discussion:

- Authorizations covered what they asked for
- Board members who were able to see balloon test did not see a problem with it
- 150ft to 170ft additional coverage seems spotty, but Mark explained that in order to have other carriers co-locate on the tower it needs to provide the space for them each being separated by about 10 ft going down the pole
- Average tree height 63.7' – asking 174' for tower plus optional 5' lightening rod
- Reviewed letters and petition received from Freedom residents all of which were in favor of tower
- Bond may be required by Planning Board during site plan review

Abutters: None

Public: Paul Elie-RF study was requested at the last Planning Board meeting-Planning Board has hired an RF engineer to do a sister study to Blue Sky's and it was to be completed by the October 19th Planning Board

meeting. They waived the Peer Review option they had to review the application but are going ahead with the RF review to make sure the signal coverage is accurate. They are using an RF engineer who is not affiliated by any carriers associated with the proposed tower and often retained by other municipalities.

Charlene MacCurtain – In favor of the Blue Sky application as she believes it will service more of the town, but not the Pequawket Trail application as it is too close to her home.

Chairman Lees clarified what the board was voting on: A variance from Article 17 Section 1706.3 for relief for height from approximately 100ft above the tree line to 174ft plus the optional 5ft lightening rod.

Variance from Article 17 Section 1706.3

- 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 set titled Site Plan: Freedom, NH Site Number: NH-5078 Address: 61 Shawtown Rd and Dated June 27, 2023.**
- 2. Obtain All State Permits**
- 3. Applicant shall adhere to section 1708 of the Town of Freedom’s Zoning Ordinance.**

Findings of Facts:

- 1. Tower will provide cell coverage in areas of Freedom with no service**
- 2. Low visual impact has been demonstrated via photo study and balloon test**
- 3. All input from public was in support of tower**

Chairman Lees motioned that, based on the foregoing finding of fact, the requested variance from Article 17, Section 1706.3 of the Town of Freedom’s Zoning Ordinance be granted. All were in favor.

Application # 41-16-23 Sean & Nancy Munnelly

Pam Keith will be voting on this application.

Sean and Nancy appeared before the board requesting a variance for relief of the front yard setback in order to replace the current camper with a 28’ by 48’ double wide manufactured home. Due to the stairs needed to enter the home from the front yard they need a variance for 9’ of relief.

The board reviewed the plan provided by Sean and explained that the plan does not show the dimensions that are needed in order for the board to make a decision. It only shows the town setback requirements and does not show the stairs that they wish to add to the home. The board requested the items be added to the plan and be presented at the October 24, 2023 meeting.

Chairman Lees, seconded by Karl made a motion to continue this application to the October 24, 2023 meeting. All were in favor. APPROVED 5-0

Application # 38-6-3-23 John Liguori Separate Property Trust

Pam Keith will be voting on this application.

Jim Rines appeared before the board, representing John Liguori Separate Property Trust seeking to permit the installation of a residential solar array to serve the on-site residence. Due to the property being located in the Shorefront District, the array is 925.62 sq ft and therefore it does not meet the requirements for a Permit By Notification which would have eliminated the need for coming in front of the board. The array is proposed on a corner piece of the property that is level and grassed and Jim believes to install erosion control would be more of a disturbance than not adding it at all.

As for the Variance, the property would allow for the proposed array to be installed within the setbacks, however, in order to eliminate the need for significant tree removal and therefore eliminating sunshade, they believe it is best to be installed within the front setback of the private road known as Liguori Dr.

The board agreed.

No Abutters or Public present for comment.

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

Variance from Article 17 Section 1706.3

- 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 set titled Conditional Use Permit Application Plan for John Liguori and Dated September 25, 2023.**
- 2. No Erosion Control Needed**

Findings of Facts:

- 1. No trees will be cut**
- 2. Erosion Control is unnecessary**

Chairman Lees, motioned to approve the Variance from Article 3 Section 304.5 Table. All were in favor. APPROVED 5-0

Chairman Lees clarified what the board was voting on: To approve the plan where no erosion control is needed. The Board elected to vote straight up for the Special Exception. Passed 5-0

Special Exception 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. Per Plan set titled Conditional Use Permit Application Plan for John Liguori and Dated September 25, 2023.**
- 2. No Erosion Control Needed**

Findings of Facts:

- 3. No trees will be cut**
- 4. Erosion Control is unnecessary**

Chairman Lees, motioned to approve the Special Exception from Article 3 Section 304.6.3. 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 discussed topics they wish to discuss at that meeting:

- Giving Gary permission to approve or deny Erosion Control Only projects
- Request to mirror State Regs for Tree Plans
- Updating regulations to allow 14ft wide trailer instead of 15ft trailer as it saves money in transport fees for the homeowner

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

The meeting adjourned at 8:30 p.m.

Respectfully Submitted,
Lindsay Pettengill,
Recording Secretary