

# ZONING BOARD OF ADJUSTMENT

P.O. Box 227  
Freedom, NH 03836

## Minutes

Freedom Zoning Board of Adjustment: **February 27, 2024**

Present: Vice Chairman Craig Niiler, Karl Ogren, Peter Keenan, Tim Cupka (A), Recording Secretary Lindsay Pettengill.

Absent: Chairman Scott Lees, Zoning Officer/Building Inspector Gary Williams, Denny Anderson, Daniel Footit (A), Pam Keith (A), Jacob Stephen (A)

Public: James Hayden, Susan Marks, Roberta McCarthy, Glenn Fogarty, Jeff Quinlan, Sharon Quinlan, Mark McConkey, Jake McConkey

During this meeting, the following cases will be heard:

### **Application # 23-57-5-24 Glenn Fogarty**

Applicant seeks to permit construction of a single-story garage within the rear and side yard setbacks.

Applicant is requesting the following:

Variance Article 3 Section 304.2

**Property is located at 123 Deer Run Dr. Map 23 Lot 57-5**

### **Application # 42-11-1-24 Marks Brothers Production Co. LLC**

Applicant is seeking to remove 1 – 21” White Pine in Grid 3 and 1 – 12” White Pine in Grid 4 as shown on the revised zoning application plan by Horizon in February 2024. Requesting a change in plan to be approved as new plan on file.

Applicant is requesting the following:

Variance from Article 3 Section 304.6.5.1

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

### **Application # 20-1-24 David & Sharlene Cahill**

Applicant is seeking a Special Exception for Erosion Control in order to construct a new house and garage, reconstruct driveway and paver path, relocate shed and cottage and construct a new septic system and well within the shorefront district.

Applicant is requesting the following:

Special Exception from Article 3 Section 304.6.3

**Property is located at 22 Cody Rd. Map 20 Lot 1**

### **Application 37-10-1-24 Jeffrey and Sharon Quinlan**

Applicant is seeking a variance to widen an approved deck from a varied width to a uniform width of 12'. Previously approved deck is 76.2' from the reference line and the proposed deck will be 70.7' from the reference line.

Applicant is requesting the following:

Variance from Article 3 Section 304.5

**Property is located at 307 West Bay Rd. Map 37 Lot 10-1**

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

Vice Chairman Niiler introduced the Board to the Public. Noted that they were a board of four tonight and that all applicants had the opportunity to continue their application to the next meeting if they wished to have a board of five, however only 3 votes were needed for approval.

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**

**Peter Keenan made the motion, seconded by Karl Ogren, to approve the meeting minutes of January 24, 2024. All were in favor. APPROVED**

#### **Application # 23-57-5-24 Glenn Fogarty**

Glenn Fogarty came before the board requesting a variance to permit construction of a single-story garage within the rear and side yard setbacks. He has spoken with his abutters, who's only concern was whether it will be a single story or 2-story garage. He stated it would be a single story therefore they were in favor of it. Fogarty did not feel that there was another spot on his land that it could be placed in order to keep the esthetics pleasing and his backyard useable.

The Board was concerned with mainly the side yard setback as the rear setback abuts property that most likely will not be developed for many years if at all. They did not feel that this was a hardship and there were other options to position the garage further from the side setback.

Fogarty offered to make the garage 24'x24' and move it 5' forward. The board agreed that was an option however it did not satisfy the side setback issue.

No Abutters or Public present for comment.

Applicant requested a continuance in order to identify possible alternative options to present to the board.

**Vice Chairman Niiler, seconded by Karl made a motion to continue the application to the March 26, 2024 Meeting. All were in favor.**

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

Susan Marks appeared before the board, representing the Marks Brothers Production Company. Applicant wishes to remove 1 – 21" White Pine in Grid 3 and 1 – 12" White Pine in Grid 4 as shown on the revised zoning application plan by Horizon in February 2024. Requesting a change in plan to be approved as new plan on file.

Susan showed the board pictures of the current trees. They discussed once the trees and stumps were removed that a condition would be to restore the impact area with "Approved Shrubs" or other native ground cover such as blueberry bushes. Applicant agreed.

Abutters: None

Public: Roberta McCarthy is a neighbor and in favor of the application.

### **Variance from Article 3 Section 304.6.5.1**

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

### **Conditions:**

- 1. Per Plan titled Zoning Application Plan for: Marks Production LLC. Dated January 30, 2024**
- 2. Obtain all State Permits**
- 3. Impact Area to be restored with “Approved Shrubs” or other native ground cover such as blueberry bushes**

### **Findings of Facts:**

- 1. Neighbors – no concerns, very supportive**
- 2. Will still be a slope**
- 3. Ground Cover to be “Approved Shrubs” or other native ground cover such as blueberry bushes**
- 4. Planting will continue into tree removal area**
- 5. Stumps to be removed**

**Vice Chairman Niiler, seconded by Karl made a motion to approve the Variance from Article 3 Section 304.6.5.1. All were in favor. APPROVED 4-0**

### **Application # 20-1-24 David & Sharlene Cahill**

Mark and Jake McConkey appeared before the board, representing the Cahill’s. Applicant is seeking strictly Erosion Control for the construction of a new house and garage, reconstruct driveway and paver path, relocate shed and cottage and construct a new septic system and well within the shorefront district. All of these items are within the setback requirements therefore only requiring a Special Exception for Erosion control.

There were two emails we reviewed.

Zoning Officer: After reviewing application, only erosion control is needed.

Anonymous: Mentioned variances needed and tree cutting that was a violation in 2019.

Board: The Anonymous email has no context in this instance as no variances are needed and the infractions are not part of this application. Do not see any issues with application.

There was no further board discussion.

No Abutters or Public present for comment.

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

**A- 4-0 motion carried**

**J- 4-0 motion carried**

**C- 4-0 motion carried**

**K- 4-0 motion carried**

**H- 4-0 motion carried**

**L- 4-0 motion carried**

**Conditions:**

- 1. Per Plan titled Shoreland & Zoning Plot for: Sharlene & David G. Cahill. Dated February 11, 2024**
- 2. Erosion control shall be installed prior to any earth moving and shall remain in place until construction is complete and site is stabilized.**
- 3. Obtain All State Permits**
- 4. Tree cutting infractions from 2018 must be resolved with Town & State of NH**

**Findings of Facts:**

- 1. Just Erosion Control**
- 2. Infractions from 2018-2019 cleared as part of approval**

**Vice Chairman Niiler, seconded by Tim made a motion to approve the Special Exception from Article 3 Section 304.6.3. All were in favor. APPROVED 4-0**

**Application 37-10-1-24 Jeffrey and Sharon Quinlan**

James Hayden from Horizons Engineering appeared before the board requesting a Variance from Article 3 Section 304.5 for relief to widen an approved deck from a varied width to a uniform width of 12'. Previously approved deck is 76.2' from the reference line and the proposed deck will be 70.7' from the reference line. This would allow for ADA compliance around the table on the deck. James also passed out pictures of the project for reference.

Board was troubled that this application was back in front of them after being approved just last year.

Homeowners were present and stated they did not originally intend to come back before the board, however their mother has become wheelchair bound and they would like to make the deck more accessible for her.

Board members agree that they would be more inclined to approve a deck with a uniform width of 10'.

Applicant requested a continuance in order to identify possible alternative options to present to the board.

No Abutters or Public present for comment.

**Karl, seconded by Tim made a motion to continue the application to the March 26, 2024 Meeting. All were in favor.**

**Miscellaneous**

- Communication and miscellaneous.**

There was no mail.

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 8:30 p.m.

Respectfully Submitted,  
Lindsay Pettengill,  
Recording Secretary