

# ZONING BOARD OF ADJUSTMENT

P.O. Box 227  
Freedom, NH 03836

## Minutes

Freedom Zoning Board of Adjustment: **March 26, 2024**

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: James Hayden, Jeff Quinlan, Sharon Quinlan, Jon Springer, Tom Crotty, Stephen Genest, Eugene and Denise Lawnicki, Paul Elie

During this meeting, the following cases will be heard:

**Application # 23-57-5-24 Glenn Fogarty (Continued from February 27, 2024)(Continued to April 23, 2024)**

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 37-10-1-24 Jeffrey and Sharon Quinlan (Continued from February 27, 2024)**

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**

**Application # 28-24-24 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 1706.3 Height

Variance Article 17 Section 1707.10 Mounting

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

**Application # 30-16-24 Jessica Mahony Trust – 2017**

Applicant seeks to permit removal of an existing nonconforming home with a new home and detached garage/bunkhouse.

Applicant is requesting the following:

Variance Article 3 Section 304

Variance Article 3 Section 304.5 Table

Variance Article 7 Section 704.5.3

Special Exception Article 3 Section 304.6.3

Special Exception article 7 Section 704.5

**Property is located at 291 Huckins Rd. Map 30 Lot 16**

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

Chairman Lees introduced the Board to the Public. Noted that Alternates Pam Keith and Daniel Footit would be sitting but only one would be voting with the board on each application, to be determined with each application.

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 Ogren made the motion, seconded by Craig Niiler, to approve the meeting minutes of February 27, 2024. All were in favor. APPROVED**

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

Glenn Fogarty emailed the office to request a continuance to the April 2024 meeting in order to complete his revised plan.

**Karl Ogren, seconded by Daniel Footit made a motion to continue the application to the April 23, 2024 Meeting. All were in favor.**

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

*(Continued from February 27, 2024)*

**Pam Keith is sitting on this application.**

James Hayden from Horizons Engineering appeared before the board with a revised request for a Variance from Article 3 Section 304.5 for relief to widen an approved deck from a varied width to a uniform width of 10' shrunk from the originally requested 12' per the suggestion of the Board. This would allow for ADA compliance around the table on the deck. There will be no additional site disturbance with this new plan.

Board reiterated that they were troubled that this application was back in front of them after being approved just last year and that the new plans reference line location was not the same as the old plan.

No Abutters or Public present for comment.

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

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

**Conditions:**

1. **Per Plan titled Zoning Board Application Plan for: Jeffrey & Sharon Quinlan. Dated March 11, 2024.**

**Findings of Facts:**

1. **Plan reflects “As Built” Structure**
2. **The “As Built” Structure differs from the originally approved plan**

**Nay Reasoning:**

2. **Nay-Spirit of Ordinance-House position is different from original plan**
  3. **Nay-Poorly Planned**
- 5A2. **Nay – Reasonable use: could be used as is.**

**Chairman Lees, seconded by Karl made a motion to approve the Variance from Article 3 Section 304.5 All were in favor. APPROVED 5-0**

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

**Dan Footit is sitting for this application.**

Attorney Jon Springer came before the board representing GMR Holdings of NH, LLC. Applicant is returning to the board after bringing the application in from of the Planning Board and realizing that when previously in front of the ZBA, not all abutters were noticed. He is here now in hopes to obtain the same approvals previously obtained at the January 24, 2024 ZBA meeting. Jon ran through the Variance criteria he was requesting and an overview of his previous presentation with the abutters who were present tonight.

Newly noticed abutters Eugene and Denise Lawnicki were present to voice their concerns.

- Impact to land values
- RF emission health concerns

Jon responded that Federal law states that municipalities can not make a decision based off of perceived health effects, but that the RF emissions at the base of the pole would be less than 1%.

The board also addressed that as far as safety in the variances they are voting on they can verify that the fall zone of the pole will not impact abutters.

No further abutters/public present for comment.

The Board agreed to vote straight up for both Variances and to maintain the same Findings of Facts and Conditions as originally approved on January 24, 2024.

**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 titled Freedom, NH Permitting Drawings. Dated November 30, 2023 and signed by Board**

**Findings of Facts:**

- 1. No connection to prior tower that was approved earlier**
- 2. Shortened tower to 130-133' from the 160' originally requested**
- 3. Visibility not as bad at new height**
- 4. Provided everything we asked for**
- 5. Coverage**

**Chairman Lees, motioned to approve the Variance from Article 17 Section 1706.3. All were in favor. APPROVED 5-0**

**Variance from Article 17 Section 1707.10**

- 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:**

- 2. Per Plan titled Freedom, NH Permitting Drawings. Dated November 30, 2023 and signed by Board**

**Findings of Facts:**

- 6. No connection to prior tower that was approved earlier**
- 7. Shortened tower to 130-133' from the 160' originally requested**
- 8. Visibility not as bad at new height**
- 9. Provided everything we asked for**
- 10. Coverage**

**Chairman Lees, motioned to approve the Variance from Article 17 Section 1707.10. All were in favor. APPROVED 5-0**

**Application # 30-16-24 Jessica Mahony Trust – 2017**

**Dan Footit is sitting for this application.**

James Hayden from Horizons Engineering appeared before the board representing Jessica Mahony Trust. Applicant wishes to permit removal of an existing nonconforming home with a new home and detached garage/bunkhouse. Applicant is seeking a variance for 5.6ft for a front overhang as the house is entirely within the setbacks. The Special Exception and Variance pertaining to the tree count are related to the construction of the home and not being removed unnecessarily. Erosion control is straight forward as it is a shorefront lot.

Board comments:

- Bunkhouse – there is a bedroom above garage PLUS a bunkhouse – how does this not become an apartment in the future.
- Very large home but more conforming on lot

Abutters:

Tom Crotty – 279 Huckins Rd – Believes bunkhouse will turn into an apartment and septic will not be appropriate for this. Also, home is not in keeping with the neighborhood.

Steve Genest – 293 Huckins Rd – Believes bunkhouse will also turn into an apartment just like the house down the road.

Septic-does not believe a septic large enough for this home will fit in the space allotted on plan.

Tree count – feels too many trees are being removed.

Home will be largest on Huckins Rd and does not fit with neighborhood.

James' response –:

Bunkhouse concern – the state will not approve anything different than what is approved on plan. At this time, applicant is not requesting a larger system.

Tree count – plenty of trees remaining. Issue only in Grid 7C & 9C

Septic – more than enough space for 5-bedroom system

Board Concerns:

- Believes house can be kept within setbacks and should not need variance on this large of lot
- Bunkhouse – Why does it show a designated bedroom and then the large bunkroom?
- Bunkhouse potential of turning into apartment and being rented
- Visual impact, lot coverage and lighting
- Drainage

Board Requests:

- Breakdown of impervious locations
- Dimensions of building on Horizon plan
- 2<sup>nd</sup> means of egress from bunkhouse
- Should meet setbacks for this large of lot
- Tree cutting-show planting to bring tree count back up
- Drainage System plan/Storm water control
- Lighting Plan should be in keeping with town ordinance
- Secretary to contact attorney to ask – Is a separate bunkhouse allowed on a shorefront lot and if so is there a size limit?

**Chairman Lees, seconded by Karl made a motion to continue the application to the April 23, 2024 Meeting. All were in favor.**

**Appointment of Board Members**

**Craig, Denny, and Tim have agreed to remain on the board. Vice Chair nominated was Craig Niller who accepted. Karl seconded by Pam motioned to appoint Craig Niller as Vice Chair for 2024. All were in favor. APPROVED**

**Miscellaneous**

- **Communication and miscellaneous.**

There was no mail.

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 9:30 p.m.

Respectfully Submitted,  
Lindsay Pettengill,  
Recording Secretary