

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

Freedom Zoning Board of Adjustment: **November 19, 2024**

Present: Chairman Scott Lees, Karl Ogren, Peter Keenan, Vice Chair Craig Niiler, Denny Anderson, Daniel Footit (A), Gary Williams & Bryan Fontaine Building Inspector/Zoning Officer, Lindsay Pettengill Recording Secretary

Absent: Tim Cupka(A) and Jacob Stephen (A), Pam Keith (A),

Public: Sean McCormack, Frank Orme, Philip Marbury Esq, Alan Fall, Scott Brooks Jr, Quincy Brooks, Donald Eshelman, Elicia Bernard, Richard Ullrich, Nadine Chapman, Mark McConkey, Dave Gallagher, Jill Bockman, Kathy Utter, James Rines, James Guido, Betsy Barrett, Joe Rogers, Ian Masters

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

Chairman Scott 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 Ogren made the motion, seconded by Peter Keenan, to approve the meeting minutes of October 22, 2024, with correction. All were in favor. APPROVED**

**Corrections #1. Chairman Lees not Niiler**

**#2. Elicia Bernard not Gerard**

**The following applications will be heard:**

**Application 23-40-24 Michael & Patsy-Jo Malaney (Continued from October)**

**Applicant is requesting a continuance to December**

**Property is located at 13 Summer St.**

**Map 23 Lot 40**

**Application 29-42-1-24 Wayne & Mary Delano (Continued from October)**

**Property is located at Huckins Rd**

**Map 29 Lot 42-1**

**Application 17-1-24 Scott Brooks Jr (Continued from October)**

**Property is located at 176 Cold Brook Rd**

**Map 17 Lot 1**

**Application 7-10-2-24 Gary Williams, Linda Bittner, Brad Williams & Lee Williams**

The applicant is requesting a variance of the side yard setback of 6.6' to the existing garage

**Applicant is requesting the following:**

Variance Article 3 Section 304.2 Side Yard Setback

**Property is located at 218 Bennett Rd  
Map 7 Lot 10-2**

**Application 36-8-24 John & Ann Fredericks**

The applicant seeking to renovate the existing nonconforming home.

**Applicant is requesting the following:**

Special Exception Article 3 Section 304.6.3.2 Erosion Control

Special Exception Article 7 Section 704.4 Tree Removal

Variance Article 3 Section Table 304.5 Shorefront District

**Property is located at 71 Sherwood Forest Way**

**Map 36 Lot 8**

**Application 13-8-24 Josph Rogers**

The applicant is requesting a Special Exception to attach house to an existing garage apt that is over 800sq.ft.

**Applicant is requesting the following:**

Special Exception Article 11 Section 1104.4.4.2 AADU

**Property is located at 100 Burnham Rd**

**Map 13 Lot 8**

**Application 37-2-24 The Denise A. Tinguely Rev Trust of 2008**

The applicant is seeking to remove an existing nonconforming home and replace with a home and attached garage in a more nearly conforming location.

**Applicant is requesting the following:**

Special Exception Article 3 Section 304.6.3 Erosion Control

Variance Article 3 Section 304.5 Front yard setback

**Property is located at 249 West Bay Rd**

**Map 37 Lot 2**

**Application 31-39-24 Daniel & Karen Stefanski**

The applicant is seeking to construct a garage in the shorefront district.

**Applicant is requesting the following:**

Special Exception Article 3 Section 304.6.3 Erosion Control

**Property is located at 489 Ossipee Lake Rd**

**Map 31 Lot 39**

**PUBLIC HEARING**

**Application 23-40-24 Michael & Patsy-Jo Malaney**

Applicant has requested a continuance to the December meeting.

**Karl made a motion to continue this application until next month (December 17, 2024), motion seconded by Denny; motion passed unanimously.**

**Application 29-42-1-24 Wayne & Mary Delano**

Mark McConkey came before the board representing the Delano's. Applicant is looking to construct a garage on an adjacent lot from their current home. They are seeking a variance for the sideline setback and to construct a building without a septic onsite. The board suggested a more conforming building at last meeting, updated application is requesting a variance for 24ft. Building went from a 36' by 36' to a 30' by 37' including overhangs. Spoke with abutting property owners (Bolduc's) who are in favor of the building, did not have a letter but had a text.

Board Discussion:

- Board wanted note on plan to state septic can be installed at a later date
- Would like letter from abutters stating ok with building
- Add green space to plan

There were no abutter or public comment.

Mark requested a continuance to the December meeting to add these items to plan.

**Scott made a motion to continue this application until next month (December 17, 2024), motion seconded by Peter; motion passed unanimously.**

**Application 17-1-24 Scott Brooks Jr**

Scott Brooks Jr came before the board requesting approval for a Common Borrow Pit to be used for the Town. Material would be excavated from the Cold Brook Rd site and then hauled to commercial property on 153 to be crushed and stored.

Craig contacted town attorney for clarification and direction per conclusion of last months meeting. He read the attorney's response aloud. (See attachment A)

Board Discussion:

- On site equipment – Excavator and then trucks in and out for hauling to 153 lot for crushing
- 100% for Town Use
- Amount excavated will be determined by the towns usage/need for material
- Typically 10,000 yards per crush due to cost of the crushing

Abutters:

Donald Eshelman read letter in opposition. (See Attachment B) Also Stated that 10,000 yards would be roughly 625 truck loads.

David Gallagher – Cragged Mtn Farm – in opposition.

Public:

Rich Ullrich – Also in opposition

- Concern with water quality/quantity
- What guarantees that pit will only be used one month of the year and who would regulate that?

Elicia Gerard – 86 Cold Brook Rd –

- Elicia read letter in opposition. (See Attachment C)

Alan Fall – Speaking as Selectboard member –

- Pit was used for the reconstruction of Rice Hill Rd.
- Pit will save the town money as well as time in the event of an emergency situation as the on hand material has saved us before.
- In response to Mr. Ullrich, state regulations restrict how far from the water table excavation is to take place.
- Volume required by town est. 2 Year stock/10,000 yards works well
- Plan works well as we do not have to negotiate with material yards for pricing

Donald Eshelman – Was Rice Hill done w/o permit? – Alan states maybe but was not a selectboard member at the time.

Nadine Chapman – Agrees with other abutters in opposition as the borrow pit has a destructive nature to the neighborhood and as she walks the road she does not want to share it with dump trucks.

Joseph Rogers – If this was a farming operation it would be considered agricultural, therefore they would be able to operate this without a permit and if this were the case it would be unable to be stopped and there would be much more truck traffic.

Jill Bockman - In opposition – Brooks do well maintaining town roads and it is much appreciated.

- Believes replacing a 20 acre pit with a 3 acre pit is not appropriate and will not serve town well.
- Concerned with new culvert
- Concern as roads did not freeze well last year and trucks could destroy it
- Road not wide enough for truck traffic

Scott Brooks Jr – Watts Pit hasn't been solely used by Freedom so it cannot be compared.

- A large lot being logged would require more than 600 truckloads
- Roads muddy due to frost

Board Discussion:

Craig Niiler – Regs state excavation no lower than 5ft above the water table

- Town has no place to stockpile once Watts Pit is closed

Alan Fall – Where would another pit go? Other town property is in conservation or not conducive to a pit. Once brought to 153 location it is centralized and off a state maintained road. Requests to speak with applicant privately before board goes through worksheet.

Board chose to grant request, however received much concern from abutters/public that applicant and selectboard member took a closed meeting outside the board meeting.

Upon return, Applicant requested a continuance from the board in order to seek legal advice.

Board agreed that applicant has the right to request continuance.

Abutters:

David Gallagher – Cragged Mtn Farm – Disapproves of a Selectboard member counseling an applicant – is a conflict of interest – and appeal of a decision should have been made by applicant instead.

Public:

Rich Ullrich – Agrees with Mr. Gallagher

Elicia Bernard – In agreement – Also contact her own attorney who said it would need to be governmental in nature in order to be exempt and it is not

Jill Bockman – In agreement with Mr. Gallagher and believes other sites should be explored

Donald Eshelman – how many edits to an application are allowed?

Board:

Craig – Board always gives applicant the ability to continue. That is not unique to this situation.  
There are no limits to the amount of edits to an application.

**Karl made a motion to continue this application until the January 28, 2025 meeting with a deadline of January 13, 2025, motion seconded by Peter; motion passed unanimously.**

**Application 7-10-2-24 Gary Williams, Linda Bittner, Brad Williams & Lee Williams**

Gary Williams and Alan Fall came before the board requesting an Equitable Waiver for relief of 6.6' for a garage previously constructed by Gary's father. The garage was measured and pinned from an incorrect pin at the time. While surveying for a lot line adjustment on the abutting property this mistake was found. Garage has been in current location for 16 years.

Abutters/Public: None

Board: No discussion

**The Board agreed to vote Straight up for the Equitable Waiver from Article 3 Section 304.2**

- 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 Boundary Line Adjustment Plan dated 10/23/2024**

**Findings of Facts:**

- 1. Lot Line was mistakenly measured**

**The Board agreed to vote Straight up for the Equitable Waiver from Article 3 Section 304.2. All were in favor. APPROVED 5-0**

**Application 36-8-24 John & Ann Fredericks**

Jim Rines came before the board representing John and Ann Fredericks. This was previously staff housing for a local camp. The new owners are looking to renovate to a single family home and bring the waterfront back into compliance. They will be removing a shed and the multiple driveways in order to have just one and later look to construct a 24 x24 garage which is fully in compliance. They propose a retaining wall with stairs instead of the sand currently there which repeatedly washes back into the lake. They fully comply with tree score therefore do not need the Special Exception for Article 7 Section 704.4, this was an oversight on the building inspector/zoning officer.

Abutters/public: None

Board Discussion:

- Garage is fully in compliance? Yes
- Making lot more conforming
- Stairs/retaining wall will manage stormwater better

**The Board agreed to vote Straight up for the 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 Shoreland Development Plan Proposed Conditions John Joseph Fredericks and Ann Marie Fredericks. Dated 11/01/2024.
- 2. Need NHDES Shoreland & Septic Approval

**Findings of Facts:**

- 1. Existing structure will become more conforming
- 2. Lot will become more pervious
- 3. Proposed wall & stairs will manage stormwater

The Board agreed to vote Straight up for the Variance from Article 3 Section 304.5 Table. All were in favor.  
**APPROVED 5-0**

The Board agreed to vote Straight up for the Special Exception from Article 3 Section 304.6.3.2.

Although the Building Inspector/Zoning Officer could have approved Erosion Control, as applicant is here the board elected to approve it for them at this time.

**Special Exception Article 3 Section 304.6.3.2**

- |                       |                       |
|-----------------------|-----------------------|
| 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 |

**Conditions:**

- 1. Per Plan Titled Shoreland Development Plan Proposed Conditions John Joseph Fredericks and Ann Marie Fredericks. Dated 11/01/2024.
- 2. Need NHDES Shoreland Approval
- 3. Erosion control shall be installed prior to any earth moving and shall remain in place until construction is complete and site is stabilized.

**Findings of Facts:**

- 1. Existing structure will become more conforming
- 2. Lot will become more pervious
- 3. Proposed wall & stairs will manage stormwater

The Board agreed to vote Straight up for the Special Exception from Article 3 Section 304.6.3.2. All were in favor.  
**APPROVED 5-0**

**Application 13-8-24 Jospheh Rogers**

Joseph Rogers came before the board for approval to attach the current 877.5 sq ft apartment above the barn to the main home to be built on existing foundation as it would create an attached ADU larger than the 800 sq ft that is currently allowed by the town.

Abutters/public: None

Board discussion:

- New septic being installed? Yes
- Foundation already present
- 77.5 sq ft over what is allowed

**The Board agreed to vote Straight up for the Variance from Article 11 Section 1104.4.4.2.**

- 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 100 Burnham Rd. submitted with ZBA application.**

**Findings of Facts:**

- 1. Apt/ADU was pre-existing**
- 2. No Expansion of ADU**

**The Board agreed to vote Straight up for the Variance from Article 11 Section 304.5 1104.4.4.2. All were in favor. APPROVED 5-0**

**Application 37-2-24 The Denise A. Tinguely Rev Trust of 2008**

Bryan Walsh from Horizons Engineering came before the board representing the Denise Tinguely Trust. Applicant wishes to remove existing home and replace it with a new home and attached garage in a new, nearly conforming location. In this new location the applicant is requesting relief for the side yard setback and erosion control.

Abutters/public: None

Board Discussion:

- What is the impervious area?
- Did you receive approval for the circular driveway from the road agent?
- How big are the pavers?
- Board is concerned if new owners decide to pave an area or rip up pavers in the future

Philip Mayberry – board can not assume that the pervious area on the plan will change

Craig – We have seen this done in the past and if it is on the plan we need to be certain of it before we approve.

Board requests the following information for next meeting.

- Dimensions on structures (w/overhangs)
- Area of the new house within the setback vs area of existing house within 75' of lake
- Show how area is being reclaimed after house is demolished
- Sq. Ft of driveway
- Detail on pavers (size/material)
- What does the 1919 # represent on post construction plan
- Area of impervious if it was not impervious

**Karl made a motion to continue this application until next month (December 17, 2024), motion seconded by Denny; motion passed unanimously.**

**Application 31-39-24 Daniel & Karen Stefanski**

Bryan Walsh along with Sean McCormack who helped with the plan came before the board representing Daniel and Karen Stefanski who are looking to construct a garage in the shorefront district.

Building Inspector/Zoning Officer Williams apologized as he could have approved this but it was an oversight.

Board agreed to approve for the applicant as they were already here,

**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 ZBA Plan Proposed & Existing Conditions for Daniel G. & Karen S. Stefanski. Dated 11/01/2024.**
- 2. Need NHDES Shoreland Approval**
- 3. Erosion control shall be installed prior to any earth moving and shall remain in place until construction is complete and site is stabilized.**

**Findings of Facts:**

- 1. Meets all conditions**

**The Board agreed to vote Straight up for the Special Exception from Article 3 Section 304.6.3. All were in favor. APPROVED 5-0**

**PUBLIC MEETING**

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

The meeting was adjourned at 10:00 p.m.

Respectfully Submitted,  
Lindsay Pettengill  
Recording Secretary





Family Niiler &lt;nilerfamily@gmail.com&gt;

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**Freedom ZBA question: 674:54**

4 messages

Family Niiler &lt;nilerfamily@gmail.com&gt;

To: loughman@soulefirm.com

Tue, Nov 19, 2024 at 1:10 PM

**Family**

Mon, Nov 18, 5:48 PM (19 hours ago)

Niilerfamily@gmail.com

Dear Atty Loughman,

I am reaching out on behalf of the Town of Freedom ZBA. We have a case coming before us Tuesday evening that involves the town's interpretation of 674:54 to allow a "Common Borrow Pit" in a residential area that is not zoned for this use.

We have questions:

1. The town does not own the land. The road agent's mother does.
2. Is there a valid case for abutters to claim diminution of land value, one is close.
3. If the town is using 100% of the material, do they even need a permit?
4. If not, is there a threshold % of material that must be used by the town?

I'm sorry to say the meeting is Tuesday 11/19. Is there any chance you or one of your colleagues would have time for a short phone call?

Thank You

Craig Niiler

Freedom ZBA Vice Chair

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**Atty. Barbara Loughman** <loughman@soulefirm.com>

To: Family Niiler &lt;nilerfamily@gmail.com&gt;

Tue, Nov 19, 2024 at 3:56 PM

Craig,

I will take each of your questions in turn. Your questions are in italics; my responses are not. I understand from your reference to common borrow pit, that we are not talking about removing a pile of earth materials incidentally stored on the property (landscaping),

but about activity that would constitute commercial earth removal, and that there has not been a borrow pit operating on the site continuously since 1979.

1. *The town does not own the land. The road agent's mother does. Does RSA 674:54 allow the town to use the land as a "common borrow pit" in a residential area.* It is my understanding that there is not currently an operating borrow pit on the land. In my opinion, RSA 674:54 does not apply, because the town does not own or occupy the property. RSA 674:54 applies to governmental uses and defines governmental use as "a use, construction, or development of land owned or occupied, or proposed to be owned or occupied" by the governmental entity, in this case, the Town. In my opinion, being the purchaser of gravel does not make the town the owner or occupant of the land.

RSA 155-E extensively regulates excavation and, with certain limited exceptions requires a state permit.

2. *Is there a valid case for abutters to claim diminution of land value, one is close.* Abutters are always free to make this argument.
3. *If the town is using 100% of the material, do they even need a permit.* In my opinion, since RSA 674:54 does not apply, the town needs town zoning and planning board approvals as well as approval under RSA 155-E. In addition,
4. *If not, is there a threshold % of material that must be used by the town?* N/A

Please let me know if you have any questions.

Barbara

Barbara F. Loughman

Soule Leslie Kidder Sayward & Loughman PLLC

PO Box 908

Wolfeboro NH 03894

Office: 603-569-8044

Cell: 603-455-3079

Loughman@soulefirm.com

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11/19/24, 4:24 PM

Gmail - Freedom ZBA question: 674:54

[Quoted text hidden]

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**Family Niler** <nilerfamily@gmail.com>

Tue, Nov 19, 2024 at 4:14 PM

To: "cc: Scott Lees" <lees101@roadrunner.com>, Karl Ogren <karl@calumet.org>, Peter Keenan <pckeenan1@yahoo.com>, Denny Anderson <denny.anderson13@gmail.com>

**Note the questions we came up with at the last meeting and our attorney's responses**

[Quoted text hidden]

**From:** Family Niiler <niilerfamily@gmail.com>  
**Sent:** Tuesday, November 19, 2024 1:10 PM  
**To:** Atty. Barbara Loughman <loughman@soulefirm.com>  
**Subject:** Freedom ZBA question: 674:54



**Family Niiler** <niilerfamily@gmail.com>  
>

Mon, Nov 18, 5:48 PM (19 hours ago)

to gorrow@soulefirm.com, cc:, Karl

Dear Atty Loughman,

I am reaching out on behalf of the Town of Freedom ZBA.. We have a case coming before us Tuesday evening that involves the town's interpretation of 674:54 to allow a "Common Borrow Pit" in a residential area that is not zoned for this use.

We have questions:

1. The town does not own the land. The road agent's mother does.
2. Is there a valid case for abutters to claim diminution of land value, one is close.
3. If the town is using 100% of the material, do they even need a permit?
4. If not, is there a threshold % of material that must be used by the town?

I'm sorry to say the meeting is Tuesday 11/19. Is there any chance you or one of your colleagues would have time for a short phone call?

(Quoted text hidden)

**Family Niiler** <niilerfamily@gmail.com>  
**To:** "Atty. Barbara Loughman" <loughman@soulefirm.com>

Tue, Nov 19, 2024 at 4:13 PM

Thank you for your quick response!

Craig Niiler

Hearing comments of Donald J. Eshelman, Jr. opposing updated Application 17-1-24 (11/19/2024)

Good Evening

I will give the Board a copy of the comments I am about to make when I finish.

My name is Donald J. Eshelman, Jr. - I go by Jim from my middle name. My wife Lisa and I still reside on a Lot that directly abuts the property of updated Application 17-1-24. We and our neighborhood group continue to oppose this updated Application.

I will mention issues with five parts of the updated Application:

1 The updated Application continues to focus on providing the Town with gravel product, a concern that should be addressed by Town bidding and budgeting. This focus still does not belong in front of the Board, which deals with the upholding of regulations and ordinances.

2 In Section 3.2 Spirit of the Ordinance, the Applicant states that excavation "noise would be no different than as if someone were to be building a house". In fact it would be quite different, as excavation for house building has a short-term time limit, whereas the pit lifetime was originally estimated at 25 - 30 years.

3 In Section 3.3 Justice, the Applicant relies on frozen roads in winter. With our changed winter weather patterns, as with last winter, frozen road surfaces are not guaranteed. With rain following snow storms last winter, road surfaces were often muddy. It may even be possible that rain washouts could make the pit inaccessible.

4 In Section 3.4 Values of the Surrounding Properties, the Applicant completely misses the major determining factor – it is not only the visuals but also importantly the sounds. It takes only common sense to realize that the sounds of excavation, large machinery, and dump trucks will diminish the value of our property and the property of others in the neighborhood, and will unreasonably change the rural peaceful character of our neighborhood.

5 In Section 3.5 Hardship, the Applicant still does not demonstrate a personal hardship if the Variance is denied.

In Part A Item I, in fact there does exist a fair and substantial relationship. The public purpose of the ordinance provision, property values and neighborhood character, apply specifically to the property in question so as to prevent the sound disruptions being proposed. A pit is not the only way the property can be used, as "house lot" is mentioned as a possible use in the updated Application.

In Part A Item ii, as in Section 3.2 mentioned earlier, the sounds would be quite different from house-building excavations, for the time limit disparity mentioned earlier.

In Part B, forcing the Town to reasonably use the property of a private owner is not hardship. The Town has means to bid and budget for materials from other local sources, and should not be bound to the Applicant only, prior to soliciting bids.

I have included a picture showing the closeness of our house to the pit, measured at 77 yards.

In closing, I have to emphasize three points regarding this updated Application:

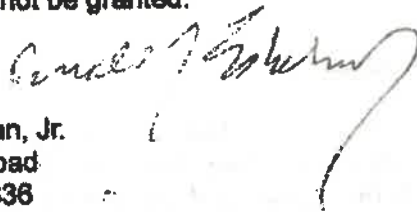
1 It cannot meet the requirements of the regulations for upholding property values and neighborhood character

2 It presents no unnecessary hardship for the Applicant

3 It is focused incorrectly on matters outside of the Board's scope.

A Variance should not be granted.

Thank you.



Donald J. Eshelman, Jr.  
146 Cold Brook Road  
Freedom, NH 03836  
[jimesh@roadrunner.com](mailto:jimesh@roadrunner.com)



Re: ZBA Variance Application 17-1-24

For those not at last month's meeting, my name is Elicia Bernard. My husband, Frank, here with me tonight, and I own property at 86 Cold Brook Road, being less than a half a mile from the proposed excavation site. We purchased property in the Town of Freedom, but more specifically we purchased 23 acres in this particular area of Freedom because it allows us to enjoy peace and quiet far away from the louder more congested areas of town. Cold Brook Road is a dirt road that is infrequently traveled which allows us to walk our dog without the worry of constant traffic or construction vehicles. This area of Freedom is truly the epitome of "Rural Residential". Having a Common Borrow Pit, which will add commercial noise as well as commercial traffic pollution within this area would truly diminish the quiet calm character of the neighborhood.

We strongly oppose this request for a variance, and I'd like to specifically address the five application conditions:

- 1) The application states this would be a "centrally located" source of material. However, this property is nowhere near the center of town. (see attached map of Freedom). The statement of being centrally located is simply untrue!

Regardless, Granting the variance would be contrary to the public interest because doing so would infringe on our rights as property owners to enjoy the peace and quiet afforded to us when we purchased property in a rural residential zoned part of town.

- 2) The spirit of the Rural Residential ordinance would not be observed with this variance due to the overwhelming noise pollution it would cause on a consistent basis. Regardless of a noise ordinance within the town or not, the zoned rural residential area implies a quiet countryside environment. There is a stark contrast between excavating for a new home and excavating for a borrow pit. A new home will be excavated in a couple of days to worst case scenario a couple of weeks and then it's done, completely, forever. With a pit the noise would be continued for 25-30 years. The sounds of large rock, etc., being loaded into trucks, and noise from the trucks hauling materials out of the area are more indicative of a commercially zoned area than a Rural Residential area.
- 3) Granting this variance, in our opinion, does not do substantial justice because no cost analysis has been done on getting materials from a pit outside the Town of Freedom, versus trucking vehicles from Route 153 up to Cold Brook Road, loading the trucks and hauling them back to 153 for processing. We all know, winter months do not always equal frozen roads and so called "emergencies" can happen when the roads are at their most vulnerable. This means the potential wear and tear on the roads from large commercial trucks is a real probability. Granting a variance for a private business to profit does not do substantial justice.
- 4) There is a real possibility of diminished property values if the variance were to be granted. Again, the noise pollution created from the excavation process, loading materials, and hauling them away all impedes our ability to enjoy the peace and quiet of our property AND it's a stark contrast to the characteristics of the surrounding area. With the knowledge of this type of commercial activity happening in the neighborhood (regardless of how many days the operation is taking place), this type of business goes against the Rural Residential Zone Ordinance. Knowing this activity will go on for 25-30 years, the conclusion would be that the fair market value of our property would be less than the fair market value of a comparison property where these proposed excavating activities are not permitted.

5) UNNECESSARY HARDSHIP:

Part A)

Per zoning board ordinance 2406.1.3: The question of unnecessary hardship applies to the specific property owner and not the entire town of Freedom. The variance application submitted provided no indication of a hardship specific only to the property owner. Application states: after the pit is played out, the lot will be reclaimed back to vegetation or a house lot. This means that there is no unnecessary hardship to the property owner because this lot could in fact be used for a house lot, which complies with the Rural Residential ordinance.

Part B)

The response provided in this section of the updated application still does not address an unnecessary hardship to the property owner. They have in no way demonstrated why this property can't be reasonably used in conformance with the ordinance.

In closing, I'd like to stress that this application is for property that is privately owned, and the proposed pit does not meet the definition of "governmental use", therefore the application should be heard solely on those facts. A pit of this nature would disturb and alter the characteristics of our charmingly quiet neighborhood. If we wanted to live near what will sound like a construction zone for the next 25-30 years, we would have purchased property in a commercial zone. For all the reasons I've stated tonight, Frank and I respectfully ask the board to deny the appeal for variance.

Thank you,

  
Elicia Bernard

  
Frank Orme

86 Cold Brook Road



# TOWN OF FREEDOM, N. H.

REVISIONS TO ZONING MAP  
 8/14/50

UNLAWFUL TO CONVEY OR RECORD ANY INSTRUMENT WHICH WOULD VIOLATE THE PROVISIONS OF THIS ZONING MAP AS HEREIN SET FORTH.

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DESIGNED BY: CAROL ANN WILSON  
 DRAWN BY: CAROL ANN WILSON  
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 TOWN ENGINEER  
 NEW HAMPSHIRE



## ZONING MAP

SOURCE: Freedom Zoning Ordinance adopted October 6, 1947 and amended March 13, 1950

Legend:

-  SHOREFRONT DISTRICT 100 FEET FROM PONDS & OSSEPEE RIVER
-  VILLAGE RESIDENTIAL DISTRICT 500 FEET FROM CENTERLINE
-  LIGHT COMMERCIAL DISTRICT 100 FEET FROM CENTERLINE & PORTION OF RT. 26 TO OSSEPEE RIVER
-  GENERAL RESIDENTIAL DISTRICT 1000 FEET FROM ROAD INDICATED
-  RURAL RESIDENTIAL DISTRICT

*Location is certainly 1000 feet from town.*

